

**LAWS PASSED
DURING THE
NINETY-FOURTH
GENERAL ASSEMBLY,
FIRST EXTRAORDINARY SESSION**

Monday, August 20, 2007
through
Thursday, August 30, 2007

HB 1 [SCS HCS HB 1]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding economic incentive and development programs

AN ACT to repeal sections 32.105, 99.805, 100.286, 135.460, 135.478, 135.500, 135.545, 135.550, 135.600, 135.630, 135.750, 135.950, 135.963, 135.967, 135.1150, 144.030, 173.196, 173.796, 178.895, 178.896, 348.300, 578.395, 620.495, 620.521, 620.523, 620.527, 620.529, 620.530, 620.537, 620.638, 620.1039, 620.1878, and 620.1881, RSMo, section 99.820 as truly agreed to and finally passed in conference committee substitute no. 2 for house substitute for house committee substitute for senate committee substitute for senate bill no. 11, ninety-second general assembly, first regular session, and section 99.820, as truly agreed to and finally passed in senate substitute for house committee substitute for house bill no. 741, ninety-fourth general assembly, first regular session, and to enact in lieu thereof thirty-six new sections relating to fostering business growth through incentives, with an emergency clause for certain sections.

SECTION

- A. Enacting clause.
 - 32.105. Definitions.
 - 67.306. Admission tickets, sale or resale of, no restrictions on price or fees, exceptions.
 - 99.805. Definitions.
 - 99.820. Municipalities' powers and duties — commission appointment and powers — public disclosure requirements — officials' conflict of interest, prohibited.
 - 99.843. Greenfield areas, no new projects to be designated, when.
 - 99.1205. Citation of law — definitions — tax credit allowed, amount — procedure to claim — cap on aggregate tax credit amount — report required — rulemaking authority.
 - 100.286. Loans secured by certain funds — standards — information required — review and certification by participating lender — board approval — fee, tax credit, limitation.
 - 135.460. Citation of law — tax credit, amount, claim, limitation — allowable programs — report — apportionment of credits — rulemaking authority.
 - 135.478. Definitions.
 - 135.500. Title of law — definitions.
 - 135.545. Tax credit for investing in the transportation development of a distressed community — approval of investment by economic development, credit carried forward, transfer of certificate of credit, maximum amount allowed.
 - 135.550. Definitions — tax credit, amount — limitations — director of social services determinations, classification of shelters — effective date.
 - 135.600. Definitions — tax credit, amount — limitations — director of social services determinations, classification of maternity homes — effective date.
 - 135.630. Tax credit for contributions to pregnancy resource centers, definitions — amount — limitations — determination of qualifying centers — cumulative amount of credits — apportionment procedure, reapportionment of credits — identity of contributors provided to director, confidentiality — transfer of credits — sunset provision.
 - 135.679. Citation — definitions — tax credit, amount, claim procedure — rulemaking authority.
 - 135.680. Definitions — tax credit, amount — recapture, when — rulemaking authority — reauthorization procedure — sunset date.
 - 135.750. Tax credit for qualified film production projects — definitions — application — cap — transfer of credits — sunset date.
 - 135.950. Definitions.
 - 135.963. Improvements exempt, when — authorizing resolution, contents — public hearing required, notice — certain property exempt from ad valorem taxes, duration — time period — property affected — assessor's duties.
 - 135.967. Tax credit allowed, duration — prohibition on receiving other tax credits — limitations on issuance of tax credits — cap — eligibility of certain expansions — employee calculations — computation of credit — flow-through tax treatments — credits may be claimed, when — certificates — refunds — verification procedures.
 - 135.1150. Citation of law — definitions — tax credit, amount — claim application — limitation — transferability of credit — rulemaking authority — sunset provision.
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- 144.030. Exemptions from state and local sales and use taxes.
- 173.196. Business firm may make donation to higher education scholarship donation fund, tax credit — amount of credit, limitations, carry-over, transfer — use of fund — tax credits prohibited, when.
- 173.796. Tax credit for donations to fund — tax credits prohibited, when.
- 178.716. Vocational school districts permitted, procedure (Butler, Stoddard, Wayne, Ripley, New Madrid, Pemiscot, Dunklin, Mississippi, Cape Girardeau, Bollinger, and Scott counties).
- 178.895. Certificates, issue of, sale of — refunding certificates, issued when — procedure on issuance — not deemed indebtedness of state or political subdivision — rules and regulations, department of economic development to promulgate, procedure — termination of sales of certificates, when.
- 178.896. Community college job training program fund established — administration — expiration date.
- 348.300. Definitions.
- 620.495. Small business incubator program — definitions — tax credit.
- 620.511. Board established, purpose, meetings, members, terms, compensation for expenses.
- 620.512. Bylaws to be established — restriction on operations of board — rulemaking authority.
- 620.513. Duties of the board, report — limitation on authority.
- 620.638. Definitions.
- 620.1039. Tax credit for qualified research expenses, exception — certification by director of economic development — transfer of credits, application, restrictions and procedure — limitations on credit — tax credits prohibited, when.
- 620.1878. Definitions.
- 620.1881. Project notice of intent, department to respond with a proposal or a rejection — benefits available — effect on withholding tax — projects eligible for benefits — annual report — cap on tax credits — allocation of tax credits.
- 99.820. Municipalities' powers and duties — commission appointment and powers — public disclosure requirements — officials' conflict of interest, prohibited.
- 578.395. Ticket scalping, penalty.
- 620.521. Law, how cited.
- 620.523. Missouri training and employment council established, purpose — members, appointment, qualifications — rules established in bylaws — terms, expenses.
- 620.527. Powers and duties of council.
- 620.529. Statewide training and employment plan to be prepared for state and local agencies — content of plan — review and update required.
- 620.530. Division of job development training to provide professional and clerical staff — division to develop rules to carry out plans and policies.
- 620.537. Targeted industries study, purpose, distribution — study of clustered job training.
- B. Emergency Clause

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 32.105, 99.805, 100.286, 135.460, 135.478, 135.500, 135.545, 135.550, 135.600, 135.630, 135.750, 135.950, 135.963, 135.967, 135.1150, 144.030, 173.196, 173.796, 178.895, 178.896, 348.300, 578.395, 620.495, 620.521, 620.523, 620.527, 620.529, 620.530, 620.537, 620.638, 620.1039, 620.1878, and 620.1881, RSMo, section 99.820 as truly agreed to and finally passed in conference committee substitute no. 2 for house substitute for house committee substitute for senate committee substitute for senate bill no. 11, ninety-second general assembly, first regular session, and section 99.820, as truly agreed to and finally passed in senate substitute for house committee substitute for house bill no. 741, ninety-fourth general assembly, first regular session, are repealed and thirty-six new sections enacted in lieu thereof, to be known as sections 32.105, 67.306, 99.805, 99.820, 99.843, 99.1205, 100.286, 135.460, 135.478, 135.500, 135.545, 135.550, 135.600, 135.630, 135.679, 135.680, 135.750, 135.950, 135.963, 135.967, 135.1150, 144.030, 173.196, 173.796, 178.716, 178.895, 178.896, 348.300, 620.495, 620.511, 620.512, 620.513, 620.638, 620.1039, 620.1878, and 620.1881 to read as follows:

32.105. DEFINITIONS. — As used in sections 32.100 to 32.125, the following terms mean:

- (1) "Affordable housing assistance activities", money, real or personal property, or professional services expended or devoted to the construction, or rehabilitation of affordable housing units;
- (2) "Affordable housing unit", a residential unit generally occupied by persons and families with incomes at or below the levels described in this subdivision and bearing a cost to the

occupant no greater than thirty percent of the maximum eligible household income for the affordable housing unit. In the case of owner-occupied units, the cost to the occupant shall be considered the amount of the gross monthly mortgage payment, including casualty insurance, mortgage insurance, and taxes. In the case of rental units, the cost to the occupant shall be considered the amount of the gross rent. The cost to the occupant shall include the cost of any utilities, other than telephone. If any utilities are paid directly by the occupant, the maximum cost that may be paid by the occupant is to be reduced by a utility allowance prescribed by the commission. Persons or families are eligible occupants of affordable housing units if the household combined, adjusted gross income as defined by the commission is equal to or less than the following percentages of the median family income for the geographic area in which the residential unit is located, or the median family income for the state of Missouri, whichever is larger; ("geographic area" means the metropolitan area or county designated as an area by the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended, for purposes of determining fair market rental rates):

Size of Household	Percent of State or Geographic Area Family Median Income
One Person	5%
Two Persons	40%
Three Persons	45%
Four Persons	50%
Five Persons	54%
Six Persons	58%
Seven Persons	62%
Eight Persons	66%

(3) "Business firm", person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, **including any charitable organization that is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under such chapter**, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state;

(4) "Commission", the Missouri housing development commission;

(5) "Community services", any type of counseling and advice, emergency assistance or medical care furnished to individuals or groups in the state of Missouri or transportation services at below-cost rates as provided in sections 208.250 to 208.275, RSMo;

(6) "Crime prevention", any activity which aids in the reduction of crime in the state of Missouri;

(7) "Defense industry contractor", a person, corporation or other entity which will be or has been negatively impacted as a result of its status as a prime contractor of the Department of Defense or as a second or third tier contractor. A "second tier contractor" means a person, corporation or other entity which contracts to perform manufacturing, maintenance or repair services for a prime contractor of the Department of Defense, and a "third tier contractor" means a person, corporation or other entity which contracts with a person, corporation or other entity which contracts with a prime contractor of the Department of Defense;

(8) "Doing business", among other methods of doing business in the state of Missouri, a partner in a firm or a shareholder in an S corporation shall be deemed to be doing business in the state of Missouri if such firm or S corporation, as the case may be, is doing business in the state of Missouri;

(9) "Economic development", the acquisition, renovation, improvement, or the furnishing or equipping of existing buildings and real estate in distressed or blighted areas of the state when such acquisition, renovation, improvement, or the furnishing or equipping of the business development projects will result in the creation or retention of jobs within the state; or, until June 30, 1996, a defense conversion pilot project located in a standard metropolitan statistical area which contains a city with a population of at least three hundred fifty thousand inhabitants, which will assist Missouri-based defense industry contractors in their conversion from predominately defense-related contracting to nondefense-oriented manufacturing. Only neighborhood organizations, as defined in subdivision (13) of this section, may apply to conduct economic development projects. Prior to the approval of an economic development project, the neighborhood organization shall enter into a contractual agreement with the department of economic development. Credits approved for economic development projects may not exceed four million dollars from within any one fiscal year's allocation, except that for fiscal years 2005, 2006, and 2007 credits approved for economic development projects shall not exceed six million dollars. Neighborhood assistance program tax credits for economic development projects and affordable housing assistance as defined in section 32.111 may be transferred, sold or assigned by a notarized endorsement thereof naming the transferee;

(10) "Education", any type of scholastic instruction or scholarship assistance to an individual who resides in the state of Missouri that enables the individual to prepare himself or herself for better opportunities or community awareness activities rendered by a statewide organization established for the purpose of archeological education and preservation;

(11) "Homeless assistance pilot project", the program established pursuant to section 32.117;

(12) "Job training", any type of instruction to an individual who resides in the state of Missouri that enables the individual to acquire vocational skills so that the individual can become employable or be able to seek a higher grade of employment;

(13) "Neighborhood organization", any organization performing community services or economic development activities in the state of Missouri and:

(a) Holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation pursuant to the provisions of the Internal Revenue Code; or

(b) Incorporated in the state of Missouri as a not-for-profit corporation pursuant to the provisions of chapter 355, RSMo; or

(c) Designated as a community development corporation by the United States government pursuant to the provisions of Title VII of the Economic Opportunity Act of 1964;

(14) "Physical revitalization", furnishing financial assistance, labor, material, or technical advice to aid in the physical improvement or rehabilitation of any part or all of a neighborhood area;

(15) "S corporation", a corporation described in Section 1361(a)(1) of the United States Internal Revenue Code and not subject to the taxes imposed by section 143.071, RSMo, by reason of section 143.471, RSMo;

(16) "Workfare renovation project", any project initiated pursuant to sections 215.340 to 215.355, RSMo.

67.306. ADMISSION TICKETS, SALE OR RESALE OF, NO RESTRICTIONS ON PRICE OR FEES, EXCEPTIONS. — No regulation or ordinance of any city, county, or other political subdivision shall prohibit the sale or resale of an admission ticket to any legal event at any price or prohibit the charging of any fee in connection with such sale or resale except that nothing in this section shall be construed to prevent the enforcement of any regulation or ordinance relating to criminal activity, consumer fraud, false advertising, or other deceptive business practices.

99.805. DEFINITIONS. — As used in sections 99.800 to 99.865, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use;

(2) "Collecting officer", the officer of the municipality responsible for receiving and processing payments in lieu of taxes or economic activity taxes from taxpayers or the department of revenue;

(3) "Conservation area", any improved area within the boundaries of a redevelopment area located within the territorial limits of a municipality in which fifty percent or more of the structures in the area have an age of thirty-five years or more. Such an area is not yet a blighted area but is detrimental to the public health, safety, morals, or welfare and may become a blighted area because of any one or more of the following factors: dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning. A conservation area shall meet at least three of the factors provided in this subdivision for projects approved on or after December 23, 1997;

(4) "Economic activity taxes", the total additional revenue from taxes which are imposed by a municipality and other taxing districts, and which are generated by economic activities within a redevelopment area over the amount of such taxes generated by economic activities within such redevelopment area in the calendar year prior to the adoption of the ordinance designating such a redevelopment area, while tax increment financing remains in effect, but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees or special assessments. For redevelopment projects or redevelopment plans approved after December 23, 1997, if a retail establishment relocates within one year from one facility to another facility within the same county and the governing body of the municipality finds that the relocation is a direct beneficiary of tax increment financing, then for purposes of this definition, the economic activity taxes generated by the retail establishment shall equal the total additional revenues from economic activity taxes which are imposed by a municipality or other taxing district over the amount of economic activity taxes generated by the retail establishment in the calendar year prior to its relocation to the redevelopment area;

(5) "Economic development area", any area or portion of an area located within the territorial limits of a municipality, which does not meet the requirements of subdivisions (1) and (3) of this section, and in which the governing body of the municipality finds that redevelopment will not be solely used for development of commercial businesses which unfairly compete in the local economy and is in the public interest because it will:

(a) Discourage commerce, industry or manufacturing from moving their operations to another state; or

(b) Result in increased employment in the municipality; or

(c) Result in preservation or enhancement of the tax base of the municipality;

(6) "Gambling establishment", an excursion gambling boat as defined in section 313.800, RSMo, and any related business facility including any real property improvements which are directly and solely related to such business facility, whose sole purpose is to provide goods or services to an excursion gambling boat and whose majority ownership interest is held by a person licensed to conduct gambling games on an excursion gambling boat or licensed to operate an excursion gambling boat as provided in sections 313.800 to 313.850, RSMo. This

subdivision shall be applicable only to a redevelopment area designated by ordinance adopted after December 23, 1997;

(7) **"Greenfield area", any vacant, unimproved, or agricultural property that is located wholly outside the incorporated limits of a city, town, or village, or that is substantially surrounded by contiguous properties with agricultural zoning classifications or uses unless said property was annexed into the incorporated limits of a city, town, or village ten years prior to the adoption of the ordinance approving the redevelopment plan for such greenfield area;**

(8) **"Municipality", a city, village, or incorporated town or any county of this state. For redevelopment areas or projects approved on or after December 23, 1997, "municipality" applies only to cities, villages, incorporated towns or counties established for at least one year prior to such date;**

[(8)] (9) **"Obligations", bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by a municipality to carry out a redevelopment project or to refund outstanding obligations;**

[(9)] (10) **"Ordinance", an ordinance enacted by the governing body of a city, town, or village or a county or an order of the governing body of a county whose governing body is not authorized to enact ordinances;**

[(10)] (11) **"Payment in lieu of taxes", those estimated revenues from real property in the area selected for a redevelopment project, which revenues according to the redevelopment project or plan are to be used for a private use, which taxing districts would have received had a municipality not adopted tax increment allocation financing, and which would result from levies made after the time of the adoption of tax increment allocation financing during the time the current equalized value of real property in the area selected for the redevelopment project exceeds the total initial equalized value of real property in such area until the designation is terminated pursuant to subsection 2 of section 99.850;**

[(11)] (12) **"Redevelopment area", an area designated by a municipality, in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as a blighted area, a conservation area, an economic development area, an enterprise zone pursuant to sections 135.200 to 135.256, RSMo, or a combination thereof, which area includes only those parcels of real property directly and substantially benefited by the proposed redevelopment project;**

[(12)] (13) **"Redevelopment plan", the comprehensive program of a municipality for redevelopment intended by the payment of redevelopment costs to reduce or eliminate those conditions, the existence of which qualified the redevelopment area as a blighted area, conservation area, economic development area, or combination thereof, and to thereby enhance the tax bases of the taxing districts which extend into the redevelopment area. Each redevelopment plan shall conform to the requirements of section 99.810;**

[(13)] (14) **"Redevelopment project", any development project within a redevelopment area in furtherance of the objectives of the redevelopment plan; any such redevelopment project shall include a legal description of the area selected for the redevelopment project;**

[(14)] (15) **"Redevelopment project costs" include the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to a redevelopment plan or redevelopment project, as applicable. Such costs include, but are not limited to, the following:**

- (a) **Costs of studies, surveys, plans, and specifications;**
- (b) **Professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning or special services. Except the reasonable costs incurred by the commission established in section 99.820 for the administration of sections 99.800 to 99.865, such costs shall be allowed only as an initial expense which, to be recoverable, shall be included in the costs of a redevelopment plan or project;**

(c) Property assembly costs, including, but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, and the clearing and grading of land;

(d) Costs of rehabilitation, reconstruction, or repair or remodeling of existing buildings and fixtures;

(e) Initial costs for an economic development area;

(f) Costs of construction of public works or improvements;

(g) Financing costs, including, but not limited to, all necessary and incidental expenses related to the issuance of obligations, and which may include payment of interest on any obligations issued pursuant to sections 99.800 to 99.865 accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for not more than eighteen months thereafter, and including reasonable reserves related thereto;

(h) All or a portion of a taxing district's capital costs resulting from the redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the redevelopment plan and project, to the extent the municipality by written agreement accepts and approves such costs;

(i) Relocation costs to the extent that a municipality determines that relocation costs shall be paid or are required to be paid by federal or state law;

(j) Payments in lieu of taxes;

[(15)] (16) "Special allocation fund", the fund of a municipality or its commission which contains at least two separate segregated accounts for each redevelopment plan, maintained by the treasurer of the municipality or the treasurer of the commission into which payments in lieu of taxes are deposited in one account, and economic activity taxes and other revenues are deposited in the other account;

[(16)] (17) "Taxing districts", any political subdivision of this state having the power to levy taxes;

[(17)] (18) "Taxing districts' capital costs", those costs of taxing districts for capital improvements that are found by the municipal governing bodies to be necessary and to directly result from the redevelopment project; and

[(18)] (19) "Vacant land", any parcel or combination of parcels of real property not used for industrial, commercial, or residential buildings.

99.820. MUNICIPALITIES' POWERS AND DUTIES — COMMISSION APPOINTMENT AND POWERS — PUBLIC DISCLOSURE REQUIREMENTS — OFFICIALS' CONFLICT OF INTEREST, PROHIBITED.— 1. A municipality may:

(1) By ordinance introduced in the governing body of the municipality within fourteen to ninety days from the completion of the hearing required in section 99.825, approve redevelopment plans and redevelopment projects, and designate redevelopment project areas pursuant to the notice and hearing requirements of sections 99.800 to 99.865. No redevelopment project shall be approved unless a redevelopment plan has been approved and a redevelopment area has been designated prior to or concurrently with the approval of such redevelopment project and the area selected for the redevelopment project shall include only those parcels of real property and improvements thereon directly and substantially benefited by the proposed redevelopment project improvements;

(2) Make and enter into all contracts necessary or incidental to the implementation and furtherance of its redevelopment plan or project;

(3) Pursuant to a redevelopment plan, subject to any constitutional limitations, acquire by purchase, donation, lease or, as part of a redevelopment project, eminent domain, own, convey, lease, mortgage, or dispose of, land and other property, real or personal, or rights or interests therein, and grant or acquire licenses, easements and options with respect thereto, all in the manner and at such price the municipality or the commission determines is reasonably necessary to achieve the objectives of the redevelopment plan. No conveyance, lease, mortgage,

disposition of land or other property, acquired by the municipality, or agreement relating to the development of the property shall be made except upon the adoption of an ordinance by the governing body of the municipality. Each municipality or its commission shall establish written procedures relating to bids and proposals for implementation of the redevelopment projects. Furthermore, no conveyance, lease, mortgage, or other disposition of land or agreement relating to the development of property shall be made without making public disclosure of the terms of the disposition and all bids and proposals made in response to the municipality's request. Such procedures for obtaining such bids and proposals shall provide reasonable opportunity for any person to submit alternative proposals or bids;

(4) Within a redevelopment area, clear any area by demolition or removal of existing buildings and structures;

(5) Within a redevelopment area, renovate, rehabilitate, or construct any structure or building;

(6) Install, repair, construct, reconstruct, or relocate streets, utilities, and site improvements essential to the preparation of the redevelopment area for use in accordance with a redevelopment plan;

(7) Within a redevelopment area, fix, charge, and collect fees, rents, and other charges for the use of any building or property owned or leased by it or any part thereof, or facility therein;

(8) Accept grants, guarantees, and donations of property, labor, or other things of value from a public or private source for use within a redevelopment area;

(9) Acquire and construct public facilities within a redevelopment area;

(10) Incur redevelopment costs and issue obligations;

(11) Make payment in lieu of taxes, or a portion thereof, to taxing districts;

(12) Disburse surplus funds from the special allocation fund to taxing districts as follows:

(a) Such surplus payments in lieu of taxes shall be distributed to taxing districts within the redevelopment area which impose ad valorem taxes on a basis that is proportional to the current collections of revenue which each taxing district receives from real property in the redevelopment area;

(b) Surplus economic activity taxes shall be distributed to taxing districts in the redevelopment area which impose economic activity taxes, on a basis that is proportional to the amount of such economic activity taxes the taxing district would have received from the redevelopment area had tax increment financing not been adopted;

(c) Surplus revenues, other than payments in lieu of taxes and economic activity taxes, deposited in the special allocation fund, shall be distributed on a basis that is proportional to the total receipt of such other revenues in such account in the year prior to disbursement;

(13) If any member of the governing body of the municipality, a member of a commission established pursuant to subsection 2 of this section, or an employee or consultant of the municipality, involved in the planning and preparation of a redevelopment plan, or redevelopment project for a redevelopment area or proposed redevelopment area, owns or controls an interest, direct or indirect, in any property included in any redevelopment area, or proposed redevelopment area, which property is designated to be acquired or improved pursuant to a redevelopment project, he or she shall disclose the same in writing to the clerk of the municipality, and shall also so disclose the dates, terms, and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the governing body of the municipality and entered upon the minutes books of the governing body of the municipality. If an individual holds such an interest, then that individual shall refrain from any further official involvement in regard to such redevelopment plan, redevelopment project or redevelopment area, from voting on any matter pertaining to such redevelopment plan, redevelopment project or redevelopment area, or communicating with other members concerning any matter pertaining to that redevelopment plan, redevelopment project or redevelopment area. Furthermore, no such member or employee shall acquire any interest, direct or indirect, in any property in a redevelopment area or proposed redevelopment area after either (a) such individual obtains

knowledge of such plan or project, or (b) first public notice of such plan, project or area pursuant to section 99.830, whichever first occurs;

(14) Charge as a redevelopment cost the reasonable costs incurred by its clerk or other official in administering the redevelopment project. The charge for the clerk's or other official's costs shall be determined by the municipality based on a recommendation from the commission, created pursuant to this section.

2. Prior to adoption of an ordinance approving the designation of a redevelopment area or approving a redevelopment plan or redevelopment project, the municipality shall create a commission of nine persons if the municipality is a county or a city not within a county and not a first class county with a charter form of government with a population in excess of nine hundred thousand, and eleven persons if the municipality is not a county and not in a first class county with a charter form of government having a population of more than nine hundred thousand, and twelve persons if the municipality is located in or is a first class county with a charter form of government having a population of more than nine hundred thousand, to be appointed as follows:

(1) In all municipalities two members shall be appointed by the school boards whose districts are included within the redevelopment plan or redevelopment area. Such members shall be appointed in any manner agreed upon by the affected districts;

(2) In all municipalities one member shall be appointed, in any manner agreed upon by the affected districts, to represent all other districts levying ad valorem taxes within the area selected for a redevelopment project or the redevelopment area, excluding representatives of the governing body of the municipality;

(3) In all municipalities six members shall be appointed by the chief elected officer of the municipality, with the consent of the majority of the governing body of the municipality;

(4) In all municipalities which are not counties and not in a first class county with a charter form of government having a population in excess of nine hundred thousand, two members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(5) In a municipality which is a county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(6) In a municipality which is located in the first class county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(7) Effective January 1, 2008, in a municipality which is in a county under the authority of the East-West Gateway Council of Governments, except any municipality in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, the municipality shall create a commission in the same manner as the commission for any county with a charter form of government and with more than one million inhabitants, such commission shall have twelve members with two such members appointed by the school boards whose districts are included in the county in a manner in which such school boards agree, with one such member to represent all other districts levying ad valorem taxes in a manner in which all such districts agree, six such members appointed either by the county executive or county commissioner, and three such members appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(8) Effective January 1, 2008, when any city, town, or village under the authority of the East-West Gateway Council of Governments, except any municipality in any county of the first classification with more than ninety- three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, desires to implement a tax

increment financing project, such city, town, or village shall first obtain the permission of the county tax increment financing commission created in this subsection within which the city, town, or village is located. In the event such commission votes in opposition to the redevelopment project, such redevelopment project shall not be approved unless at least two-thirds of the governing body of the city, town, or village votes to approve such project;

(9) At the option of the members appointed by the municipality, the members who are appointed by the school boards and other taxing districts may serve on the commission for a term to coincide with the length of time a redevelopment project, redevelopment plan or designation of a redevelopment area is considered for approval by the commission, or for a definite term pursuant to this subdivision. If the members representing school districts and other taxing districts are appointed for a term coinciding with the length of time a redevelopment project, plan or area is approved, such term shall terminate upon final approval of the project, plan or designation of the area by the governing body of the municipality. Thereafter the commission shall consist of the six members appointed by the municipality, except that members representing school boards and other taxing districts shall be appointed as provided in this section prior to any amendments to any redevelopment plans, redevelopment projects or designation of a redevelopment area. If any school district or other taxing jurisdiction fails to appoint members of the commission within thirty days of receipt of written notice of a proposed redevelopment plan, redevelopment project or designation of a redevelopment area, the remaining members may proceed to exercise the power of the commission. Of the members first appointed by the municipality, two shall be designated to serve for terms of two years, two shall be designated to serve for a term of three years and two shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed by the municipality shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments.

3. The commission, subject to approval of the governing body of the municipality, may exercise the powers enumerated in sections 99.800 to 99.865, except final approval of plans, projects and designation of redevelopment areas. The commission shall hold public hearings and provide notice pursuant to sections 99.825 and 99.830. The commission shall vote on all proposed redevelopment plans, redevelopment projects and designations of redevelopment areas, and amendments thereto, within thirty days following completion of the hearing on any such plan, project or designation and shall make recommendations to the governing body within ninety days of the hearing referred to in section 99.825 concerning the adoption of or amendment to redevelopment plans and redevelopment projects and the designation of redevelopment areas. The requirements of subsection 2 of this section and this subsection shall not apply to redevelopment projects upon which the required hearings have been duly held prior to August 31, 1991.

99.843. GREENFIELD AREAS, NO NEW PROJECTS TO BE DESIGNATED, WHEN. — Notwithstanding the provisions of sections 99.800 to 99.865 to the contrary, no new tax increment financing project shall be authorized in any greenfield area, as such term is defined in section 99.805, that is located within a city not within a county or any county subject to the authority of the East-West Gateway Council of Governments. Municipalities not subject to the authority of the East- West Gateway Council of Governments may authorize tax increment finance projects in greenfield areas.

99.1205. CITATION OF LAW — DEFINITIONS — TAX CREDIT ALLOWED, AMOUNT — PROCEDURE TO CLAIM — CAPON AGGREGATE TAX CREDIT AMOUNT — REPORT REQUIRED — RULEMAKING AUTHORITY. — 1. This section shall be known and may be cited as the "Distressed Areas Land Assemblage Tax Credit Act".

2. As used in this section, the following terms mean:

(1) "Acquisition costs", the purchase price for the eligible parcel, costs of environmental assessments, closing costs, real estate brokerage fees, reasonable demolition costs of vacant structures, and reasonable maintenance costs incurred to maintain an acquired eligible parcel for a period of five years after the acquisition of such eligible parcel. Acquisition costs shall not include costs for title insurance and survey, attorney's fees, relocation costs, fines, or bills from a municipality;

(2) "Applicant", any person, firm, partnership, trust, limited liability company, or corporation which has:

(a) Incurred, within an eligible project area, acquisition costs for the acquisition of land sufficient to satisfy the requirements under subdivision (8) of subsection 2 of this section; and

(b) Been appointed or selected, pursuant to a redevelopment agreement by a municipal authority, as a redeveloper or similar designation, under an economic incentive law, to redevelop an urban renewal area or a redevelopment area that includes all of an eligible project area or whose redevelopment plan or redevelopment area, which encompasses all of an eligible project area, has been approved or adopted under an economic incentive law. In addition to being designated the redeveloper, the applicant shall have been designated to receive economic incentives only after the municipal authority has considered the amount of the tax credits in adopting such economic incentives as provided in subsection 8 of this section. The redevelopment agreement shall provide that:

a. The funds generated through the use or sale of the tax credits issued under this section shall be used to redevelop the eligible project area;

b. No more than seventy-five percent of the urban renewal area identified in the urban renewal plan or the redevelopment area identified in the redevelopment plan may be redeveloped by the applicant; and

c. The remainder of the urban renewal area or the redevelopment area shall be redeveloped by co-redevelopers or redevelopers to whom the applicant has assigned its redevelopment rights and obligations under the urban renewal plan or the redevelopment plan;

(3) "Certificate", a tax credit certificate issued under this section;

(4) "Condemnation proceedings", any action taken by, or on behalf of, an applicant to initiate an action in a court of competent jurisdiction to use the power of eminent domain to acquire a parcel within the eligible project area. Condemnation proceedings shall include any and all actions taken after the submission of a notice of intended acquisition to an owner of a parcel within the eligible project area by a municipal authority or any other person or entity under section 523.250, RSMo;

(5) "Department", the Missouri department of economic development;

(6) "Economic incentive laws", any provision of Missouri law pursuant to which economic incentives are provided to redevelopers of a parcel or parcels to redevelop the land, such as tax abatement or payments in lieu of taxes, or redevelopment plans or redevelopment projects approved or adopted which include the use of economic incentives to redevelop the land. Economic incentive laws include, but are not limited to, the land clearance for redevelopment authority law under sections 99.300 to 99.660, the real property tax increment allocation redevelopment act under sections 99.800 to 99.865, the Missouri downtown and rural economic stimulus act under sections 99.915 to 99.1060, and the downtown revitalization preservation program under sections 99.1080 to 99.1092;

(7) "Eligible parcel", a parcel:

(a) Which is located within an eligible project area;

(b) Which is to be redeveloped;

(c) On which the applicant has not commenced construction prior to the effective date of this section;

(d) Which has been acquired without the commencement of any condemnation proceedings with respect to such parcel brought by or on behalf of the applicant. Any parcel acquired by the applicant from a municipal authority shall not constitute an eligible parcel; and

(e) On which all outstanding taxes, fines, and bills levied by municipal governments that were levied by the municipality during the time period that the applicant held title to the eligible parcel have been paid in full;

(8) "Eligible project area", an area which shall have satisfied the following requirements:

(a) The eligible project area shall consist of at least seventy-five acres and may include parcels within its boundaries that do not constitute an eligible parcel;

(b) At least eighty percent of the eligible project area shall be located within a Missouri qualified census tract area, as designated by the United States Department of Housing and Urban Development under 26 U.S.C. Section 42, or within a distressed community as that term is defined in section 135.530, RSMo;

(c) The eligible parcels acquired by the applicant within the eligible project area shall total at least fifty acres, which may consist of contiguous and noncontiguous parcels;

(d) The average number of parcels per acre in an eligible project area shall be four or more;

(e) Less than five percent of the acreage within the boundaries of the eligible project area shall consist of owner-occupied residences which the applicant has identified for acquisition under the urban renewal plan or the redevelopment plan pursuant to which the applicant was appointed or selected as the redeveloper or by which the person or entity was qualified as an applicant under this section on the date of the approval or adoption of such plan;

(9) "Interest costs", interest, loan fees, and closing costs. Interest costs shall not include attorney's fees;

(10) "Maintenance costs", costs of boarding up and securing vacant structures, costs of removing trash, and costs of cutting grass and weeds;

(11) "Municipal authority", any city, town, village, county, public body corporate and politic, political subdivision, or land trust of this state established and authorized to own land within the state;

(12) "Municipality", any city, town, village, or county;

(13) "Parcel", a single lot or tract of land, and the improvements thereon, owned by, or recorded as the property of, one or more persons or entities;

(14) "Redeveloped", the process of undertaking and carrying out a redevelopment plan or urban renewal plan pursuant to which the conditions which provided the basis for an eligible project area to be included in a redevelopment plan or urban renewal plan are to be reduced or eliminated by redevelopment or rehabilitation; and

(15) "Redevelopment agreement", the redevelopment agreement or similar agreement into which the applicant entered with a municipal authority and which is the agreement for the implementation of the urban renewal plan or redevelopment plan pursuant to which the applicant was appointed or selected as the redeveloper or by which the person or entity was qualified as an applicant under this section; and such appointment or selection shall have been approved by an ordinance of the governing body of the municipality, or municipalities, or in the case of any city not within a county, the board of aldermen, in which the eligible project area is located. The redevelopment agreement shall include a time line for redevelopment of the eligible project area. The redevelopment agreement shall state that the named developer shall be subject to the provisions of chapter 290, RSMo.

3. Any applicant shall be entitled to a tax credit against the taxes imposed under chapters 143, 147, and 148, RSMo, except for sections 143.191 to 143.265, RSMo, in an

amount equal to fifty percent of the acquisition costs, and one hundred percent of the interest costs incurred for a period of five years after the acquisition of an eligible parcel. No tax credits shall be issued under this section until after January 1, 2008.

4. If the amount of such tax credit exceeds the total tax liability for the year in which the applicant is entitled to receive a tax credit, the amount that exceeds the state tax liability may be carried forward for credit against the taxes imposed under chapters 143, 147, and 148, RSMo, for the succeeding six years, or until the full credit is used, whichever occurs first. The applicant shall not be entitled to a tax credit for taxes imposed under sections 143.191 to 143.265, RSMo. Applicants entitled to receive such tax credits may transfer, sell, or assign the tax credits. Tax credits granted to a partnership, a limited liability company taxed as a partnership, or multiple owners of property shall be passed through to the partners, members, or owners respectively pro rata or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method.

5. A purchaser, transferee, or assignee of the tax credits authorized under this section may use acquired tax credits to offset up to one hundred percent of the tax liabilities otherwise imposed under chapters 143, 147, and 148, RSMo, except for sections 143.191 to 143.265, RSMo. A seller, transferor, or assignor shall perfect such transfer by notifying the department in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department to administer and carry out the provisions of this section.

6. To claim tax credits authorized under this section, an applicant shall submit to the department an application for a certificate. An applicant shall identify the boundaries of the eligible project area in the application. The department shall verify that the applicant has submitted a valid application in the form and format required by the department. The department shall verify that the municipal authority held the requisite hearings and gave the requisite notices for such hearings in accordance with the applicable economic incentive act, and municipal ordinances. On an annual basis, an applicant may file for the tax credit for the acquisition costs, and for the tax credit for the interest costs, subject to the limitations of this section. If an applicant applying for the tax credit meets the criteria required under this section, the department shall issue a certificate in the appropriate amount. If an applicant receives a tax credit for maintenance costs as a part of the applicant's acquisition costs, the department shall post on its Internet web site the amount and type of maintenance costs and a description of the redevelopment project for which the applicant received a tax credit within thirty days after the department issues the certificate to the applicant.

7. The total aggregate amount of tax credits authorized under this section shall not exceed ninety-five million dollars. At no time shall the annual amount of the tax credits issued under this section exceed ten million dollars. If the tax credits that are to be issued under this section exceed, in any year, the ten million dollar limitation, the department shall either:

(1) Issue tax credits to the applicant in the amount of ten million dollars, if there is only one applicant entitled to receive tax credits in that year; or

(2) Issue the tax credits on a pro rata basis to all applicants entitled to receive tax credits in that year. Any amount of tax credits, which an applicant is, or applicants are, entitled to receive on an annual basis and are not issued due to the ten million dollar limitation, shall be carried forward for the benefit of the applicant or applicants to subsequent years. No tax credits provided under this section shall be authorized after August 28, 2013. Any tax credits which have been authorized on or before August 28, 2013, but not issued, may be issued, subject to the limitations provided under this subsection, until all such authorized tax credits have been issued.

8. Upon issuance of any tax credits pursuant to this section, the department shall report to the municipal authority the applicant's name and address, the parcel numbers of the eligible parcels for which the tax credits were issued, the itemized acquisition costs and interest costs for which tax credits were issued, and the total value of the tax credits issued. The municipal authority and the state shall not consider the amount of the tax credits as an applicant's cost, but shall include the tax credits in any sources and uses and cost benefit analysis reviewed or created for the purpose of awarding other economic incentives. The amount of the tax credits shall not be considered an applicant's cost in the evaluation of the amount of any award of any other economic incentives, but shall be considered in measuring the reasonableness of the rate of return to the applicant with respect to such award of other economic incentives. The municipal authority shall provide the report to any relevant commission, board, or entity responsible for the evaluation and recommendation or approval of other economic incentives to assist in the redevelopment of the eligible project area. Tax credits authorized under this section shall constitute redevelopment tax credits, as such term is defined under section 135.800 RSMo, and shall be subject to all provisions applicable to redevelopment tax credits provided under sections 135.800 to 135.830 RSMo.

9. The department may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

100.286. LOANS SECURED BY CERTAIN FUNDS — STANDARDS — INFORMATION REQUIRED — REVIEW AND CERTIFICATION BY PARTICIPATING LENDER — BOARD APPROVAL — FEE, TAX CREDIT, LIMITATION. — 1. Within the discretion of the board, the development and reserve fund, the infrastructure development fund or the export finance fund may be pledged to secure the payment of any bonds or notes issued by the board, or to secure the payment of any loan made by the board or a participating lender which loan:

- (1) Is requested to finance any project or export trade activity;
- (2) Is requested by a borrower who is demonstrated to be financially responsible;
- (3) Can reasonably be expected to provide a benefit to the economy of this state;
- (4) Is otherwise secured by a mortgage or deed of trust on real or personal property or other security satisfactory to the board; provided that loans to finance export trade activities may be secured by export accounts receivable or inventories of exportable goods satisfactory to the board;
- (5) Does not exceed five million dollars;
- (6) Does not have a term longer than five years if such loan is made to finance export trade activities; and
- (7) Is, when used to finance export trade activities, made to small or medium size businesses or agricultural businesses, as may be defined by the board.

2. The board shall prescribe standards for the evaluation of the financial condition, business history, and qualifications of each borrower and the terms and conditions of loans which may be secured, and may require each application to include a financial report and evaluation by an independent certified public accounting firm, in addition to such examination and evaluation as may be conducted by any participating lender.

3. Each application for a loan secured by the development and reserve fund, the infrastructure development fund or the export finance fund shall be reviewed in the first instance

by any participating lender to whom the application was submitted. If satisfied that the standards prescribed by the board are met and that the loan is otherwise eligible to be secured by the development and reserve fund, the infrastructure development fund or the export finance fund, the participating lender shall certify the same and forward the application for final approval to the board.

4. The securing of any loans by the development and reserve fund, the infrastructure development fund or the export finance fund shall be conditioned upon approval of the application by the board, and receipt of an annual reserve participation fee, as prescribed by the board, submitted by or on behalf of the borrower.

5. The securing of any loan by the export finance fund for export trade activities shall be conditioned upon the board's compliance with any applicable treaties and international agreements, such as the general agreement on tariffs and trade and the subsidies code, to which the United States is then a party.

6. Any taxpayer, **including any charitable organization that is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo**, shall be entitled to a tax credit against any tax otherwise due under the provisions of chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.261, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in the amount of fifty percent of any amount contributed in money or property by the taxpayer to the development and reserve fund, the infrastructure development fund or the export finance fund during the taxpayer's tax year, provided, however, the total tax credits awarded in any calendar year beginning after January 1, 1994, shall not be the greater of ten million dollars or five percent of the average growth in general revenue receipts in the preceding three fiscal years. This limit may be exceeded only upon joint agreement by the commissioner of administration, the director of the department of economic development, and the director of the department of revenue that such action is essential to ensure retention or attraction of investment in Missouri. If the board receives, as a contribution, real property, the contributor at such contributor's own expense shall have two independent appraisals conducted by appraisers certified by the Master Appraisal Institute. Both appraisals shall be submitted to the board, and the tax credit certified by the board to the contributor shall be based upon the value of the lower of the two appraisals. The board shall not certify the tax credit until the property is deeded to the board. Such credit shall not apply to reserve participation fees paid by borrowers under sections 100.250 to 100.297. The portion of earned tax credits which exceeds the taxpayer's tax liability may be carried forward for up to five years.

7. Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection 6 of this section under the terms and conditions prescribed in subdivisions (1) and (2) of this subsection. Such taxpayer, hereinafter the assignor for the purpose of this subsection, may sell, assign, exchange or otherwise transfer earned tax credits:

- (1) For no less than seventy-five percent of the par value of such credits; and
- (2) In an amount not to exceed one hundred percent of annual earned credits.

The taxpayer acquiring earned credits, hereinafter the assignee for the purpose of this subsection, may use the acquired credits to offset up to one hundred percent of the tax liabilities otherwise imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.261, RSMo, chapter 147, RSMo, or chapter 148, RSMo. Unused credits in the hands of the assignee may be carried forward for up to five years, provided all such credits shall be claimed within ten years following the tax years in which the contribution was made. The assignor shall enter into a written agreement with the assignee establishing the terms and conditions of the agreement and shall perfect such transfer by notifying the board in writing within thirty calendar days following the effective day of the transfer and shall provide any information as may be required by the board to administer and carry out the provisions of this

section. Notwithstanding any other provision of law to the contrary, the amount received by the assignor of such tax credit shall be taxable as income of the assignor, and the excess of the par value of such credit over the amount paid by the assignee for such credit shall be taxable as income of the assignee.

135.460. CITATION OF LAW — TAX CREDIT, AMOUNT, CLAIM, LIMITATION — ALLOWABLE PROGRAMS — REPORT — APPORTIONMENT OF CREDITS — RULEMAKING AUTHORITY. — 1. Section 135.460 and sections 620.1100 and 620.1103, RSMo, shall be known and may be cited as the "Youth Opportunities and Violence Prevention Act".

2. As used in this section, the term "taxpayer" shall include corporations as defined in section 143.441 or 143.471, RSMo, **any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo**, and individuals, individual proprietorships and partnerships.

3. A taxpayer shall be allowed a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, chapter 147, RSMo, chapter 148, RSMo, or chapter 153, RSMo, in an amount equal to thirty percent for property contributions and fifty percent for monetary contributions of the amount such taxpayer contributed to the programs described in subsection 5 of this section, not to exceed two hundred thousand dollars per taxable year, per taxpayer; except as otherwise provided in subdivision (5) of subsection 5 of this section. The department of economic development shall prescribe the method for claiming the tax credits allowed in this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, including the ability to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

4. The tax credits allowed by this section shall be claimed by the taxpayer to offset the taxes that become due in the taxpayer's tax period in which the contribution was made. Any tax credit not used in such tax period may be carried over the next five succeeding tax periods.

5. The tax credit allowed by this section may only be claimed for monetary or property contributions to public or private programs authorized to participate pursuant to this section by the department of economic development and may be claimed for the development, establishment, implementation, operation, and expansion of the following activities and programs:

(1) An adopt-a-school program. Components of the adopt-a-school program shall include donations for school activities, seminars, and functions; school-business employment programs; and the donation of property and equipment of the corporation to the school;

(2) Expansion of programs to encourage school dropouts to reenter and complete high school or to complete a graduate equivalency degree program;

(3) Employment programs. Such programs shall initially, but not exclusively, target unemployed youth living in poverty and youth living in areas with a high incidence of crime;

(4) New or existing youth clubs or associations;

(5) Employment/internship/apprenticeship programs in business or trades for persons less than twenty years of age, in which case the tax credit claimed pursuant to this section shall be equal to one-half of the amount paid to the intern or apprentice in that tax year, except that such credit shall not exceed ten thousand dollars per person;

- (6) Mentor and role model programs;
 - (7) Drug and alcohol abuse prevention training programs for youth;
 - (8) Donation of property or equipment of the taxpayer to schools, including schools which primarily educate children who have been expelled from other schools, or donation of the same to municipalities, or not-for-profit corporations or other not-for-profit organizations which offer programs dedicated to youth violence prevention as authorized by the department;
 - (9) Not-for-profit, private or public youth activity centers;
 - (10) Nonviolent conflict resolution and mediation programs;
 - (11) Youth outreach and counseling programs.
6. Any program authorized in subsection 5 of this section shall, at least annually, submit a report to the department of economic development outlining the purpose and objectives of such program, the number of youth served, the specific activities provided pursuant to such program, the duration of such program and recorded youth attendance where applicable.
7. The department of economic development shall, at least annually submit a report to the Missouri general assembly listing the organizations participating, services offered and the number of youth served as the result of the implementation of this section.
8. The tax credit allowed by this section shall apply to all taxable years beginning after December 31, 1995.
9. For the purposes of the credits described in this section, in the case of a corporation described in section 143.471, RSMo, partnership, limited liability company described in section 347.015, RSMo, cooperative, marketing enterprise, or partnership, in computing Missouri's tax liability, such credits shall be allowed to the following:
- (1) The shareholders of the corporation described in section 143.471, RSMo;
 - (2) The partners of the partnership;
 - (3) The members of the limited liability company; and
 - (4) Individual members of the cooperative or marketing enterprise.

Such credits shall be apportioned to the entities described in subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last day of the taxpayer's tax period.

135.478. DEFINITIONS. — As used in sections 135.481 to 135.487, the following terms mean:

- (1) "Department", the department of economic development;
- (2) "Director", the director of the department of economic development;
- (3) "Distressed community", as defined in section 135.530;
- (4) "Eligible costs for a new residence", expenses incurred for property acquisition, development, site preparation other than demolition, surveys, architectural and engineering services and construction and all other necessary and incidental expenses incurred for constructing a new market rate residence, which is or will be owner-occupied, which is not replacing a national register listed or local historic structure; except that, costs paid for by the taxpayer with grants or forgivable loans, other than tax credits, provided pursuant to state or federal governmental programs are ineligible;
- (5) "Eligible costs for rehabilitation", expenses incurred for the renovation or rehabilitation of an existing residence including site preparation, surveys, architectural and engineering services, construction, modification, expansion, remodeling, structural alteration, replacements and alterations; except that, costs paid for by the taxpayer with grants or forgivable loans other than tax credits provided pursuant to state or federal governmental programs are ineligible;
- (6) "Eligible residence", a single-family residence forty years of age or older, located in this state and not within a distressed community as defined by section 135.530, which is occupied or intended to be or occupied long-term by the owner or offered for sale at market rate for owner-occupancy and which is either located within a United States census block group which, if in a metropolitan statistical area, has a median household income of less than ninety percent,

but greater than or equal to seventy percent of the median household income for the metropolitan statistical area in which the census block group is located, or which, if located within a United States census block group in a nonmetropolitan area, has a median household income of less than ninety percent, but greater than or equal to seventy percent of the median household income for the nonmetropolitan areas in the state;

(7) "Flood plain", any land or area susceptible to being inundated by water from any source or located in a one hundred-year flood plain area determined by Federal Emergency Management Agency mapping as subject to flooding;

(8) "New residence", a residence constructed on land which if located within a distressed community has either been vacant for at least two years or is or was occupied by a structure which has been condemned by the local entity in which the structure is located or which, if located outside of a distressed community but within a census block group as described in subdivision (6) or (10) of this section, either replaces a residence forty years of age or older demolished for purposes of constructing a replacement residence, or which is constructed on vacant property which has been classified for not less than forty continuous years as residential or utility, commercial, railroad or other real property pursuant to article X, section 4(b) of the Missouri Constitution, as defined in section 137.016, RSMo; except that, no new residence shall be constructed in a flood plain or on property used for agricultural purposes. In a distressed community, the term "new residence" shall include condominiums, owner-occupied units or other units intended to be owner-occupied in multiple unit structures;

(9) "Project", new construction, rehabilitation or substantial rehabilitation of a residence that qualifies for a tax credit pursuant to sections 135.475 to 135.487;

(10) "Qualifying residence", a single-family residence, forty years of age or older, located in this state which is occupied or intended to be occupied long-term by the owner or offered for sale at market rate for owner-occupancy and which is located in a metropolitan statistical area or nonmetropolitan statistical area within a United States census block group which has a median household income of less than seventy percent of the median household income for the metropolitan statistical area or nonmetropolitan area, respectively, or which is located within a distressed community. A qualifying residence shall include a condominium or residence within a multiple residential structure or a structure containing multiple single-family residences which is located within a distressed community;

(11) "Substantial rehabilitation", rehabilitation the costs of which exceed fifty percent of either the purchase price or the cost basis of the structure immediately prior to rehabilitation; provided that, the structure is at least fifty years old notwithstanding any provision of sections 135.475 to 135.487 to the contrary;

(12) "Tax liability", the tax due pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo;

(13) "Taxpayer", any person, partnership, corporation, trust [or], limited liability company, **or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo.**

135.500. TITLE OF LAW — DEFINITIONS. — 1. Sections 135.500 to 135.529 shall be known and may be cited as the "Missouri Certified Capital Company Law".

2. As used in sections 135.500 to 135.529, the following terms mean:

(1) "Affiliate of a certified company":

(a) Any person, directly or indirectly owning, controlling or holding power to vote ten percent or more of the outstanding voting securities or other ownership interests of the Missouri certified capital company;

(b) Any person ten percent or more of whose outstanding voting securities or other ownership interest are directly or indirectly owned, controlled or held with power to vote by the Missouri certified capital company;

(c) Any person directly or indirectly controlling, controlled by, or under common control with the Missouri certified capital company;

(d) A partnership in which the Missouri certified capital company is a general partner;

(e) Any person who is an officer, director or agent of the Missouri certified capital company or an immediate family member of such officer, director or agent;

(2) "Applicable percentage", one hundred percent;

(3) "Capital in a qualified Missouri business", any debt, equity or hybrid security, of any nature and description whatsoever, including a debt instrument or security which has the characteristics of debt but which provides for conversion into equity or equity participation instruments such as options or warrants which are acquired by a Missouri certified capital company or a qualified investing entity as a result of a transfer of cash to a business;

(4) "Certified capital", an investment of cash by an investor in a Missouri certified capital company;

(5) "Certified capital company", any partnership, corporation, trust or limited liability company, whether organized on a profit or not-for-profit basis, that is located, headquartered and registered to conduct business in Missouri that has as its primary business activity, the investment of cash in qualified Missouri businesses, and which is certified by the department as meeting the criteria of sections 135.500 to 135.529;

(6) "Department", the Missouri department of economic development;

(7) "Director", the director of the department of economic development or a person acting under the supervision of the director;

(8) "Investor", any insurance company that contributes cash;

(9) "Liquidating distribution", payments to investors or to the certified capital company from earnings;

(10) "Person", any natural person or entity, including a corporation, general or limited partnership, trust [or], limited liability company, **or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo;**

(11) "Qualified distribution", any distribution or payment to equity holders of a certified capital company in connection with the following:

(a) Reasonable costs and expenses of forming, syndicating, managing and operating the certified capital company;

(b) Management fees for managing and operating the certified capital company; and

(c) Any increase in federal or state taxes, penalties and interest, including those related to state and federal income taxes, of equity owners of a certified capital company which related to the ownership, management or operation of a certified capital company;

(12) "Qualified investing entity", any partnership, corporation, trust, or limited liability company, whether organized on a for-profit or not-for-profit basis, that:

(a) Is registered to do business in this state;

(b) Is a wholly owned subsidiary of a certified capital company or otherwise affiliated with and under common control with a certified capital company; and

(c) Has been designated as a qualified investing entity by such certified capital company. Such designation shall be effective upon delivery by the certified capital company of written notice of the designation to the department. A qualified investing entity may raise debt or equity capital for investment, but such capital shall not be considered certified capital. Any qualified investment made by a qualified investing entity after the effective date of this act shall be deemed to have been made by a certified capital company that designated the qualified investing entity as such; provided that no qualified investment may be deemed to have been made by more than one certified capital company;

(13) "Qualified investment", the investment of cash by a Missouri certified capital company or a qualified investing entity in such a manner as to acquire capital in a qualified Missouri business;

(14) "Qualified Missouri business", an independently owned and operated business, which is headquartered and located in Missouri and which is in need of venture capital and cannot obtain conventional financing. Such business shall have no more than two hundred employees, eighty percent of which are employed in Missouri. Such business shall be involved in commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, but excluding retail, real estate, real estate development, insurance and professional services provided by accountants, lawyers or physicians. At the time a certified capital company or qualified investing entity makes an initial investment in a business, such business shall be a small business concern that meets the requirements of the United States Small Business Administration's qualification size standards for its venture capital program, as defined in Section 13 CFR 121.301 (c) of the Small Business Investment Act of 1958, as amended. Any business which is classified as a qualified Missouri business at the time of the first investment in such business by a Missouri certified capital company or qualified investing entity shall, for a period of seven years from the date of such first investment, remain classified as a qualified Missouri business and may receive follow-on investments from any Missouri certified capital company or qualified investing entity and such follow-on investments shall be qualified investments even though such business may not meet the other qualifications of this subsection at the time of such follow-on investments;

(15) "State premium tax liability", any liability incurred by an insurance company pursuant to the provisions of section 148.320, 148.340, 148.370 or 148.376, RSMo, and any other related provisions, which may impose a tax upon the premium income of insurance companies after January 1, 1997.

135.545. TAX CREDIT FOR INVESTING IN THE TRANSPORTATION DEVELOPMENT OF A DISTRESSED COMMUNITY — APPROVAL OF INVESTMENT BY ECONOMIC DEVELOPMENT, CREDIT CARRIED FORWARD, TRANSFER OF CERTIFICATE OF CREDIT, MAXIMUM AMOUNT ALLOWED. — A taxpayer shall be allowed a credit for taxes paid pursuant to chapter 143, 147 or 148, RSMo, in an amount equal to fifty percent of a qualified investment in transportation development for aviation, mass transportation, including parking facilities for users of mass transportation, railroads, ports, including parking facilities and limited access roads within ports, waterborne transportation, bicycle and pedestrian paths, or rolling stock located in a distressed community as defined in section 135.530, and which are part of a development plan approved by the appropriate local agency. If the department of economic development determines the investment has been so approved, the department shall grant the tax credit in order of date received. A taxpayer may carry forward any unused tax credit for up to ten years and may carry it back for the previous three years until such credit has been fully claimed. Certificates of tax credit issued in accordance with this section may be transferred, sold or assigned by notarized endorsement which names the transferee. The tax credits allowed pursuant to this section shall be for an amount of no more than ten million dollars for each year. This credit shall apply to returns filed for all taxable years beginning on or after January 1, 1999. Any unused portion of the tax credit authorized pursuant to this section shall be available for use in the future by those entities until fully claimed. **For purposes of this section, a "taxpayer" shall include any charitable organization that is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo.**

135.550. DEFINITIONS — TAX CREDIT, AMOUNT — LIMITATIONS — DIRECTOR OF SOCIAL SERVICES DETERMINATIONS, CLASSIFICATION OF SHELTERS — EFFECTIVE DATE. —

1. As used in this section, the following terms shall mean:

(1) "Contribution", a donation of cash, stock, bonds or other marketable securities, or real property;

(2) "Shelter for victims of domestic violence", a facility located in this state which meets the definition of a shelter for victims of domestic violence pursuant to section 455.200, RSMo, and which meets the requirements of section 455.220, RSMo;

(3) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, chapter 147, RSMo, chapter 148, RSMo, and chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo;

(4) "Taxpayer", a person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, **including any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo,** or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo.

2. A taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability, in an amount equal to fifty percent of the amount such taxpayer contributed to a shelter for victims of domestic violence.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year that the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any tax credit that cannot be claimed in the taxable year the contribution was made may be carried over to the next four succeeding taxable years until the full credit has been claimed.

4. Except for any excess credit which is carried over pursuant to subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution or contributions to a shelter or shelters for victims of domestic violence in such taxpayer's taxable year has a value of at least one hundred dollars.

5. The director of the department of social services shall determine, at least annually, which facilities in this state may be classified as shelters for victims of domestic violence. The director of the department of social services may require of a facility seeking to be classified as a shelter for victims of domestic violence whatever information is reasonably necessary to make such a determination. The director of the department of social services shall classify a facility as a shelter for victims of domestic violence if such facility meets the definition set forth in subsection 1 of this section.

6. The director of the department of social services shall establish a procedure by which a taxpayer can determine if a facility has been classified as a shelter for victims of domestic violence, and by which such taxpayer can then contribute to such shelter for victims of domestic violence and claim a tax credit. Shelters for victims of domestic violence shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to shelters for victims of domestic violence in any one fiscal year shall not exceed two million dollars.

7. The director of the department of social services shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director of the department of social services, the cumulative amount of tax credits are equally apportioned among all facilities classified as shelters for victims of domestic violence. If a shelter for victims of domestic violence fails to use all, or some percentage to be

determined by the director of the department of social services, of its apportioned tax credits during this predetermined period of time, the director of the department of social services may reapportion these unused tax credits to those shelters for victims of domestic violence that have used all, or some percentage to be determined by the director of the department of social services, of their apportioned tax credits during this predetermined period of time. The director of the department of social services may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director of the department of social services shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

8. This section shall become effective January 1, 2000, and shall apply to all tax years after December 31, 1999.

135.600. DEFINITIONS — TAX CREDIT, AMOUNT — LIMITATIONS — DIRECTOR OF SOCIAL SERVICES DETERMINATIONS, CLASSIFICATION OF MATERNITY HOMES — EFFECTIVE DATE. — 1. As used in this section, the following terms shall mean:

(1) "Contribution", a donation of cash, stock, bonds or other marketable securities, or real property;

(2) "Maternity home", a residential facility located in this state established for the purpose of providing housing and assistance to pregnant women who are carrying their pregnancies to term, and which is exempt from income taxation under the United States Internal Revenue Code;

(3) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, chapter 147, RSMo, chapter 148, RSMo, and chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo;

(4) "Taxpayer", a person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, **including any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo,** or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo.

2. A taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability, in an amount equal to fifty percent of the amount such taxpayer contributed to a maternity home.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year that the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any tax credit that cannot be claimed in the taxable year the contribution was made may be carried over to the next four succeeding taxable years until the full credit has been claimed.

4. Except for any excess credit which is carried over pursuant to subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution or contributions to a maternity home or homes in such taxpayer's taxable year has a value of at least one hundred dollars.

5. The director of the department of social services shall determine, at least annually, which facilities in this state may be classified as maternity homes. The director of the department of social services may require of a facility seeking to be classified as a maternity home whatever

information is reasonably necessary to make such a determination. The director of the department of social services shall classify a facility as a maternity home if such facility meets the definition set forth in subsection 1 of this section.

6. The director of the department of social services shall establish a procedure by which a taxpayer can determine if a facility has been classified as a maternity home, and by which such taxpayer can then contribute to such maternity home and claim a tax credit. Maternity homes shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to maternity homes in any one fiscal year shall not exceed two million dollars.

7. The director of the department of social services shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director of the department of social services, the cumulative amount of tax credits are equally apportioned among all facilities classified as maternity homes. If a maternity home fails to use all, or some percentage to be determined by the director of the department of social services, of its apportioned tax credits during this predetermined period of time, the director of the department of social services may reapportion these unused tax credits to those maternity homes that have used all, or some percentage to be determined by the director of the department of social services, of their apportioned tax credits during this predetermined period of time. The director of the department of social services may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director of the department of social services shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

8. This section shall become effective January 1, 2000, and shall apply to all tax years after December 31, 1999.

135.630. TAX CREDIT FOR CONTRIBUTIONS TO PREGNANCY RESOURCE CENTERS, DEFINITIONS—AMOUNT—LIMITATIONS—DETERMINATION OF QUALIFYING CENTERS—CUMULATIVE AMOUNT OF CREDITS—APPORTIONMENT PROCEDURE, REAPPORTIONMENT OF CREDITS—IDENTITY OF CONTRIBUTORS PROVIDED TO DIRECTOR, CONFIDENTIALITY—TRANSFER OF CREDITS—SUNSET PROVISION. — 1. As used in this section, the following terms mean:

- (1) "Contribution", a donation of cash, stock, bonds, or other marketable securities, or real property;
- (2) "Director", the director of the department of social services;
- (3) "Pregnancy resource center", a nonresidential facility located in this state:
 - (a) Established and operating primarily to provide assistance to women with crisis pregnancies or unplanned pregnancies by offering pregnancy testing, counseling, emotional and material support, and other similar services to encourage and assist such women in carrying their pregnancies to term; and
 - (b) Where childbirths are not performed; and
 - (c) Which does not perform, induce, or refer for abortions and which does not hold itself out as performing, inducing, or referring for abortions; and
 - (d) Which provides direct client services at the facility, as opposed to merely providing counseling or referral services by telephone; and
 - (e) Which provides its services at no cost to its clients; and
 - (f) When providing medical services, such medical services must be performed in accordance with Missouri statute; and
 - (g) Which is exempt from income taxation pursuant to the Internal Revenue Code of 1986, as amended;
- (4) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 147, 148, and 153, RSMo, excluding

sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions;

(5) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo, **or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo.**

2. For all tax years beginning on or after January 1, 2007, a taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability in an amount equal to fifty percent of the amount such taxpayer contributed to a pregnancy resource center.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year for which the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any tax credit that cannot be claimed in the taxable year the contribution was made may be carried over to the next four succeeding taxable years until the full credit has been claimed.

4. Except for any excess credit which is carried over pursuant to subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution or contributions to a pregnancy resource center or centers in such taxpayer's taxable year has a value of at least one hundred dollars.

5. The director shall determine, at least annually, which facilities in this state may be classified as pregnancy resource centers. The director may require of a facility seeking to be classified as a pregnancy resource center whatever information which is reasonably necessary to make such a determination. The director shall classify a facility as a pregnancy resource center if such facility meets the definition set forth in subsection 1 of this section.

6. The director shall establish a procedure by which a taxpayer can determine if a facility has been classified as a pregnancy resource center. Pregnancy resource centers shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to pregnancy resource centers in any one fiscal year shall not exceed two million dollars. Tax credits shall be issued in the order contributions are received.

7. The director shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director, the cumulative amount of tax credits are equally apportioned among all facilities classified as pregnancy resource centers. If a pregnancy resource center fails to use all, or some percentage to be determined by the director, of its apportioned tax credits during this predetermined period of time, the director may reapportion these unused tax credits to those pregnancy resource centers that have used all, or some percentage to be determined by the director, of their apportioned tax credits during this predetermined period of time. The director may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

8. Each pregnancy resource center shall provide information to the director concerning the identity of each taxpayer making a contribution to the pregnancy resource center who is claiming a tax credit pursuant to this section and the amount of the contribution. The director shall

provide the information to the director of revenue. The director shall be subject to the confidentiality and penalty provisions of section 32.057, RSMo, relating to the disclosure of tax information.

9. Notwithstanding any other law to the contrary, any tax credits granted under this section may be assigned, transferred, sold, or otherwise conveyed without consent or approval. Such taxpayer, hereinafter the assignor for purposes of this section, may sell, assign, exchange, or otherwise transfer earned tax credits:

- (1) For no less than seventy-five percent of the par value of such credits; and**
- (2) In an amount not to exceed one hundred percent of annual earned credits.**

10. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) Any new program authorized under this section shall automatically sunset six years after August 28, 2006, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which a program authorized under this section is sunset.

135.679. CITATION — DEFINITIONS — TAX CREDIT, AMOUNT, CLAIM PROCEDURE — RULEMAKING AUTHORITY. — 1. This section shall be known and may be cited as the "Qualified Beef Tax Credit Act".

2. As used in this section, the following terms mean:

(1) "Agricultural property", any real and personal property, including but not limited to buildings, structures, improvements, equipment, and livestock, that is used in or is to be used in this state by residents of this state for:

- (a) The operation of a farm or ranch; and
- (b) Grazing, feeding, or the care of livestock;

(2) "Authority", the agricultural and small business development authority established in chapter 348, RSMo;

(3) "Backgrounded", any additional weight at the time of the first qualifying sale, before being finished, above the established baseline weight;

(4) "Baseline weight", the average weight in the immediate past three years of all beef animals sold that are thirty months of age or younger, categorized by sex. Baseline weight for qualified beef animals that are physically out-of-state but whose ownership is retained by a resident of this state shall be established by the average transfer weight in the immediate past three years of all beef animals that are thirty months of age or younger and that are transferred out-of-state but whose ownership is retained by a resident of this state, categorized by sex. The established baseline weight shall be effective for a period of three years. If the taxpayer is a qualifying beef animal producer with fewer than three years of production, the baseline weight shall be established by the available average weight in the immediate past year of all beef animals sold that are thirty months of age or younger, categorized by sex. If the qualifying beef animal producer has no previous production, the baseline weight shall be established by the authority;

(5) "Finished", the period from backgrounded to harvest;

(6) "Qualifying beef animal", any beef animal that is certified by the authority, that was born in this state after August 28, 2008, that was raised and backgrounded or finished in this state by the taxpayer, excluding any beef animal more than thirty months of age as verified by certified written birth records;

(7) "Qualifying sale", the first time a qualifying beef animal is sold in this state after the qualifying beef animal is backgrounded, and a subsequent sale if the weight of the qualifying beef animal at the time of the subsequent sale is greater than the weight of the qualifying beef animal at the time of the first qualifying sale of such beef animal;

(8) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or otherwise due under chapter 147, RSMo;

(9) "Taxpayer", any individual or entity who:

(a) Is subject to the tax imposed in chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax imposed in chapter 147, RSMo;

(b) In the case of an individual, is a resident of this state as verified by a 911 address or in the absence of a 911 system, a physical address; and

(c) Owns or rents agricultural property and principal place of business is located in this state.

3. For all taxable years beginning on or after January 1, 2009, but ending on or before December 31, 2016, a taxpayer shall be allowed a tax credit for the first qualifying sale and for a subsequent qualifying sale of all qualifying beef animals. The tax credit amount for the first qualifying sale shall be ten cents per pound, shall be based on the backgrounded weight of all qualifying beef animals at the time of the first qualifying sale, and shall be calculated as follows: the qualifying sale weight minus the baseline weight multiplied by ten cents, as long as the qualifying sale weight is equal to or greater than two hundred pounds above the baseline weight. The tax credit amount for each subsequent qualifying sale shall be ten cents per pound, shall be based on the backgrounded weight of all qualifying beef animals at the time of the subsequent qualifying sale, and shall be calculated as follows: the qualifying sale weight minus the baseline weight multiplied by ten cents, as long as the qualifying sale weight is equal to or greater than two hundred pounds above the baseline weight. The authority may waive no more than twenty-five percent of the two hundred pound weight gain requirement, but any such waiver shall be based on a disaster declaration issued by the U. S. Department of Agriculture.

4. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year for which the credit is claimed. No tax credit claimed under this section shall be refundable. The tax credit shall be claimed in the taxable year in which the qualifying sale of the qualifying beef occurred, but any amount of credit that the taxpayer is prohibited by this section from claiming in a taxable year may be carried forward to any of the taxpayer's five subsequent taxable years and carried backward to any of the taxpayer's three previous taxable years. The amount of tax credits that may be issued to all eligible applicants claiming tax credits authorized in this section in a fiscal year shall not exceed three million dollars. Tax credits shall be issued on an as-received application basis until the fiscal year limit is reached. Any credits not issued in any fiscal year shall expire and shall not be issued in any subsequent years.

5. To claim the tax credit allowed under this section, the taxpayer shall submit to the authority an application for the tax credit on a form provided by the authority and any application fee imposed by the authority. The application shall be filed with the authority at the end of each calendar year in which a qualified sale was made and for which a tax credit is claimed under this section. The application shall include any certified documentation and information required by the authority. All required information obtained by the authority shall be confidential and not disclosed except by court order, subpoena, or as otherwise provided by law. If the taxpayer and the qualified sale meet all criteria required by this section and approval is granted by the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credit certificates issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit certificate shall have the same rights in the tax credit as the original taxpayer. Whenever a tax credit certificate is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit certificate or the value of the tax credit.

6. Any information provided under this section shall be confidential information, to be shared with no one except state and federal animal health officials, except as provided in subsection 5 of this section.

7. The authority may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

8. This section shall not be subject to the Missouri sunset act, sections 23.250 to 23.298, RSMo.

135.680. DEFINITIONS — TAX CREDIT, AMOUNT — RECAPTURE, WHEN — RULEMAKING AUTHORITY — REAUTHORIZATION PROCEDURE — SUNSET DATE. — 1. As used in this section, the following terms shall mean:

(1) "Adjusted purchase price", the product of:

(a) The amount paid to the issuer of a qualified equity investment for such qualified equity investment; and

(b) The following fraction:

a. The numerator shall be the dollar amount of qualified low-income community investments held by the issuer in this state as of the credit allowance date during the applicable tax year; and

b. The denominator shall be the total dollar amount of qualified low-income community investments held by the issuer in all states as of the credit allowance date during the applicable tax year;

c. For purposes of calculating the amount of qualified low-income community investments held by an issuer, an investment shall be considered held by an issuer even if the investment has been sold or repaid; provided that the issuer reinvests an amount equal to the capital returned to or recovered by the issuer from the original investment, exclusive of any profits realized, in another qualified low-income community investment within twelve months of the receipt of such capital. An issuer shall not be required to reinvest capital returned from qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment shall be considered held by the issuer through the seventh anniversary of the qualified equity investment's issuance;

(2) "Applicable percentage", zero percent for each of the first two credit allowance dates, seven percent for the third credit allowance date, and eight percent for the next four credit allowance dates;

(3) "Credit allowance date", with respect to any qualified equity investment:

(a) The date on which such investment is initially made; and

(b) Each of the six anniversary dates of such date thereafter;

(4) "Long-term debt security", any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment, amortization, or prepayment features prior to its original maturity date, and with no distribution, payment, or interest features related to the profitability of the qualified community development entity or the performance of the qualified community development entity's investment portfolio. The foregoing shall in no way limit the holder's ability to accelerate

payments on the debt instrument in situations where the issuer has defaulted on covenants designed to ensure compliance with this section or Section 45D of the Internal Revenue Code of 1986, as amended;

(5) "Qualified active low-income community business", the meaning given such term in Section 45D of the Internal Revenue Code of 1986, as amended; provided that any business that derives or projects to derive fifteen percent or more of its annual revenue from the rental or sale of real estate shall not be considered to be a qualified active low-income community business;

(6) "Qualified community development entity", the meaning given such term in Section 45D of the Internal Revenue Code of 1986, as amended; provided that such entity has entered into an allocation agreement with the Community Development Financial Institutions Fund of the U.S. Treasury Department with respect to credits authorized by Section 45D of the Internal Revenue Code of 1986, as amended, which includes the state of Missouri within the service area set forth in such allocation agreement;

(7) "Qualified Equity Investment", any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(a) Is acquired after the effective date of this section at its original issuance solely in exchange for cash;

(b) Has at least eighty-five percent of its cash purchase price used by the issuer to make qualified low-income community investments; and

(c) Is designated by the issuer as a qualified equity investment under this subdivision and is certified by the department of economic development as not exceeding the limitation contained in subsection 2 of this section.

This term shall include any qualified equity investment that does not meet the provisions of paragraph (a) of this subdivision if such investment was a qualified equity investment in the hands of a prior holder;

(8) "Qualified low-income community investment", any capital or equity investment in, or loan to, any qualified active low-income community business. With respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments made in such business, on a collective basis with all of its affiliates, that may be used from the calculation of any numerator described in subparagraph (a) of paragraph (b) of subdivision (1) of this subsection shall be ten million dollars whether issued to one or several qualified community development entities;

(9) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo, excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, or otherwise due under section 375.916, RSMo, or chapter 147, 148, or 153, RSMo;

(10) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143, RSMo, excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, or the tax imposed in section 375.916, RSMo, or chapter 147, 148, or 153, RSMo.

2. A taxpayer that makes a qualified equity investment earns a vested right to tax credits under this section. On each credit allowance date of such qualified equity investment the taxpayer, or subsequent holder of the qualified equity investment, shall be entitled to a tax credit during the taxable year including such credit allowance date. The tax credit amount shall be equal to the applicable percentage of the adjusted purchase price paid to the issuer of such qualified equity investment. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the tax year for which the tax credit is claimed. No tax credit claimed under this section shall be refundable or transferable. Tax credits earned by a partnership, limited liability company, S-corporation, or other "pass-through" entity may be allocated to the partners, members, or shareholders of such entity for their direct use in accordance with the provisions of any agreement among such partners, members, or shareholders. Any

amount of tax credit that the taxpayer is prohibited by this section from claiming in a taxable year may be carried forward to any of the taxpayer's five subsequent taxable years. The department of economic development shall limit the monetary amount of qualified equity investments permitted under this section to a level necessary to limit tax credit utilization at no more than fifteen million dollars of tax credits in any fiscal year. Such limitation on qualified equity investments shall be based on the anticipated utilization of credits without regard to the potential for taxpayers to carry forward tax credits to later tax years.

3. The issuer of the qualified equity investment shall certify to the department of economic development the anticipated dollar amount of such investments to be made in this state during the first twelve-month period following the initial credit allowance date. If on the second credit allowance date, the actual dollar amount of such investments is different than the amount estimated, the department of economic development shall adjust the credits arising on the second allowance date to account for such difference.

4. The department of economic development shall recapture the tax credit allowed under this section with respect to such qualified equity investment under this section if:

(1) Any amount of the federal tax credit available with respect to a qualified equity investment that is eligible for a tax credit under this section is recaptured under Section 45D of the Internal Revenue Code of 1986, as amended; or

(2) The issuer redeems or makes principal repayment with respect to a qualified equity investment prior to the seventh anniversary of the issuance of such qualified equity investment.

Any tax credit that is subject to recapture shall be recaptured from the taxpayer that claimed the tax credit on a return.

5. The department of economic development shall promulgate rules to implement the provisions of this section, including recapture provisions on a scaled proportional basis, and to administer the allocation of tax credits issued for qualified equity investments, which shall be conducted on a first-come, first-serve basis. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

6. For fiscal years following fiscal year 2010, qualified equity investments shall not be made under this section unless reauthorization is made pursuant to this subsection. For all fiscal years following fiscal year 2010, unless the general assembly adopts a concurrent resolution granting authority to the department of economic development to approve qualified equity investments for the Missouri new markets development program and clearly describing the amount of tax credits available for the next fiscal year, or otherwise complies with the provisions of this subsection, no qualified equity investments may be permitted to be made under this section. The amount of available tax credits contained in such a resolution shall not exceed the limitation provided under subsection 2 of this section. In any year in which the provisions of this section shall sunset pursuant to subsection 7 of this section, reauthorization shall be made by general law and not by concurrent resolution. Nothing in this subsection shall preclude a taxpayer who makes a qualified equity investment prior to the expiration of authority to make qualified equity investments from claiming tax credits relating to such qualified equity investment for each applicable credit allowance date.

7. Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset. However, nothing in this subsection shall preclude a taxpayer who makes a qualified equity investment prior to sunset of this section under the provisions of section 23.253, RSMo, from claiming tax credits relating to such qualified equity investment for each credit allowance date.

135.750. TAX CREDIT FOR QUALIFIED FILM PRODUCTION PROJECTS — DEFINITIONS — APPLICATION — CAP — TRANSFER OF CREDITS — SUNSET DATE. — 1. As used in this section, the following terms mean:

(1) "Highly compensated individual", any individual who receives compensation in excess of one million dollars in connection with a single qualified film production project;

(2) "Qualified film production project", any film, video, commercial, or television production, as approved by the department of economic development and the office of the Missouri film commission, that is under thirty minutes in length with an expected in-state expenditure budget in excess of fifty thousand dollars, or that is over thirty minutes in length with an expected in-state expenditure budget in excess of one hundred thousand dollars. Regardless of the production costs, "qualified film production project" shall not include any:

(a) News or current events programming;

(b) Talk show;

(c) Production produced primarily for industrial, corporate, or institutional purposes, and for internal use;

(d) Sports event or sports program;

(e) Gala presentation or awards show;

(f) Infomercial or any production that directly solicits funds;

(g) Political ad;

(h) Production that is considered obscene, as defined in section 573.010, RSMo;

(3) "Qualifying expenses", the sum of the total amount spent in this state for the following by a production company in connection with a qualified film production project:

(a) Goods and services leased or purchased by the production company. For goods with a purchase price of twenty-five thousand dollars or more, the amount included in qualifying expenses shall be the purchase price less the fair market value of the goods at the time the production is completed;

(b) Compensation and wages paid by the production company on which the production company remitted withholding payments to the department of revenue under chapter 143, RSMo. For purposes of this section, compensation and wages shall not include any amounts paid to a highly compensated individual;

(4) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or otherwise due under chapter 148, RSMo;

(5) "Taxpayer", any individual, partnership, or corporation as described in section 143.441, 143.471, RSMo, or section 148.370, RSMo, that is subject to the tax imposed in chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax imposed in chapter 148, RSMo, or any charitable organization which

is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo.

2. For all taxable years beginning on or after January 1, 1999, but ending on or before December 31, 2007, a taxpayer shall be granted a tax credit [against the tax otherwise due pursuant to chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.261, RSMo, or chapter 148, RSMo,] for up to fifty percent of the amount of investment in production or production-related activities in [a qualified film production project. As used in this section, the term "taxpayer" means an individual, a partnership, or a corporation as described in section 143.441, 143.471, RSMo, or section 148.370, RSMo, and the term "qualified film production project" means] any film production project with an expected in-state expenditure budget in excess of three hundred thousand dollars. **For all taxable years beginning on or after January 1, 2008, a taxpayer shall be allowed a tax credit for up to thirty-five percent of the amount of qualifying expenses in a qualified film production project.** Each film production company shall be limited to one qualified film production project per year. Activities qualifying a taxpayer for the tax credit pursuant to this subsection shall be approved by the office of the Missouri film commission and the department of economic development.

[2.] **3.** Taxpayers shall apply for the film production tax credit by submitting an application to the department of economic development, on a form provided by the department. As part of the application, the expected in-state expenditures of the qualified film production project shall be documented. In addition, the application shall include an economic impact statement, showing the economic impact from the activities of the film production project. Such economic impact statement shall indicate the impact on the region of the state in which the film production or production-related activities are located and on the state as a whole.

[3.] **4. For all taxable years ending on or before December 31, 2007,** tax credits certified pursuant to subsection 1 of this section shall not exceed one million dollars per taxpayer per year, and shall not exceed a total for all tax credits certified of one million five hundred thousand dollars per year. **For all taxable years beginning on or after January 1, 2008, tax credits certified under subsection 1 of this section shall not exceed a total for all tax credits certified of four million five hundred thousand dollars per year.** Taxpayers may carry forward unused credits for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the film production or production-related activities for which the credits are certified by the department occurred.

[4.] **5.** Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection 1 of this section. The taxpayer acquiring the tax credits may use the acquired credits to offset the tax liabilities otherwise imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to [143.261] **143.265**, RSMo, or chapter 148, RSMo. Unused acquired credits may be carried forward for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the film production or production-related activities for which the credits are certified by the department occurred.

6. Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

135.950. DEFINITIONS. — The following terms, whenever used in sections 135.950 to 135.970 mean:

(1) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use;

(2) "Board", an enhanced enterprise zone board established pursuant to section 135.957;

(3) "Commencement of commercial operations" shall be deemed to occur during the first taxable year for which the new business facility is first put into use by the taxpayer in the enhanced business enterprise in which the taxpayer intends to use the new business facility;

(4) "Department", the department of economic development;

(5) "Director", the director of the department of economic development;

(6) "Employee", [a person employed by the enhanced business enterprise on:

(a) A regular, full-time basis;

(b) A part-time basis, provided such person is customarily performing such duties an average of at least twenty hours per week; or

(c) A seasonal basis, provided such person performs such duties for at least eighty percent of the season customary for the position in which such person is employed] **a person employed by the enhanced business enterprise that is scheduled to work an average of at least one thousand hours per year, and such person at all times has health insurance offered to him or her, which is partially paid for by the employer;**

(7) "Enhanced business enterprise", an industry or one of a cluster of industries that is either:

(a) Identified by the department as critical to the state's economic security and growth; or

(b) Will have an impact on industry cluster development, as identified by the governing authority in its application for designation of an enhanced enterprise zone and approved by the department; but excluding gambling establishments (NAICS industry group 7132), retail trade (NAICS sectors 44 and 45), **educational services (NAICS sector 61), religious organizations (NAICS industry group 8131), public administration (NAICS sector 92),** and food and drinking places (NAICS subsector 722), **however, notwithstanding provisions of this section to the contrary, headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate territory. In the event a national, state, or regional headquarters operation is not the predominant activity of a project facility, the new jobs and investment of such headquarters operation is considered eligible for benefits under this section if the other requirements are satisfied.** Service industries may be eligible only if a majority of its annual revenues will be derived from [services provided] out of the state;

(8) "Existing business facility", any facility in this state which was employed by the taxpayer claiming the credit in the operation of an enhanced business enterprise immediately prior to an expansion, acquisition, addition, or replacement;

(9) "Facility", any building used as an enhanced business enterprise located within an enhanced enterprise zone, including the land on which the facility is located and all machinery, equipment, and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(10) **"Facility base employment", the greater of the number of employees located at the facility on the date of the notice of intent, or for the twelve-month period prior to the date of the notice of intent, the average number of employees located at the facility, or in the event the project facility has not been in operation for a full twelve-month period, the average number of employees for the number of months the facility has been in operation prior to the date of the notice of intent;**

(11) **"Facility base payroll", the total amount of taxable wages paid by the enhanced business enterprise to employees of the enhanced business enterprise located at the facility**

in the twelve months prior to the notice of intent, not including the payroll of owners of the enhanced business enterprise unless the enhanced business enterprise is participating in an employee stock ownership plan. For the purposes of calculating the benefits under this program, the amount of base payroll shall increase each year based on the consumer price index or other comparable measure, as determined by the department;

(12) "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;

[(11)] (13) "NAICS", the 1997 edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS sector, subsector, industry group or industry identified in this section shall include its corresponding classification in subsequent federal industry classification systems;

[(12)] (14) "New business facility", a facility that satisfies the following requirements:

(a) Such facility is employed by the taxpayer in the operation of an enhanced business enterprise. Such facility shall not be considered a new business facility in the hands of the taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of an enhanced business enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of an enhanced business enterprise, the portion employed by the taxpayer in the operation of an enhanced business enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c), and (d) of this subdivision are satisfied;

(b) Such facility is acquired by, or leased to, the taxpayer after December 31, 2004. A facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31, 2004, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding contract to transfer title to the taxpayer, or the commencement of the term of the lease to the taxpayer occurs after December 31, 2004;

(c) If such facility was acquired by the taxpayer from another taxpayer and such facility was employed immediately prior to the acquisition by another taxpayer in the operation of an enhanced business enterprise, the operation of the same or a substantially similar enhanced business enterprise is not continued by the taxpayer at such facility; and

(d) Such facility is not a replacement business facility, as defined in subdivision [(16)] (22) of this section;

[(13)] (15) "New business facility employee", an employee of the taxpayer in the operation of a new business facility during the taxable year for which the credit allowed by section 135.967 is claimed, except that truck drivers and rail and barge vehicle operators and other operators of rolling stock for hire shall not constitute new business facility employees;

[(14)] (16) "New business facility investment", the value of real and depreciable tangible personal property, acquired by the taxpayer as part of the new business facility, which is used by the taxpayer in the operation of the new business facility, during the taxable year for which the credit allowed by 135.967 is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges, tunnels, and rail yards and spurs shall not constitute new business facility investments. The total value of such property during such taxable year shall be:

(a) Its original cost if owned by the taxpayer; or

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The new business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the new business facility is in operation for less than an entire taxable year, the new business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the

portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period;

(17) "New job", the number of employees located at the facility that exceeds the facility base employment less any decrease in the number of the employees at related facilities below the related facility base employment. No job that was created prior to the date of the notice of intent shall be deemed a new job;

(18) "Notice of intent", a form developed by the department which is completed by the enhanced business enterprise and submitted to the department which states the enhanced business enterprise's intent to hire new jobs and request benefits under such program;

(19) "Related facility", a facility operated by the enhanced business enterprise or a related company in this state that is directly related to the operation of the project facility;

(20) "Related facility base employment", the greater of:

(a) The number of employees located at all related facilities on the date of the notice of intent; or

(b) For the twelve-month period prior to the date of the notice of intent, the average number of employees located at all related facilities of the enhanced business enterprise or a related company located in this state;

[(15)] (21) "Related taxpayer":

(a) A corporation, partnership, trust, or association controlled by the taxpayer;

(b) An individual, corporation, partnership, trust, or association in control of the taxpayer;

or

(c) A corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. "Control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote, "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association, and "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust; ownership shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;

[(16)] (22) "Replacement business facility", a facility otherwise described in subdivision [(12)] (14) of this section, hereafter referred to in this subdivision as "new facility", which replaces another facility, hereafter referred to in this subdivision as "old facility", located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first taxable year for which the credit allowed by this section is claimed. A new facility shall be deemed to replace an old facility if the following conditions are met:

(a) The old facility was operated by the taxpayer or a related taxpayer during the taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which commencement of commercial operations occurs at the new facility; and

(b) The old facility was employed by the taxpayer or a related taxpayer in the operation of an enhanced business enterprise and the taxpayer continues the operation of the same or substantially similar enhanced business enterprise at the new facility. Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered a replacement business facility if the taxpayer's new business facility investment, as computed in subdivision [(14)] (16) of this section, in the new facility during the tax period for which the credits allowed in section 135.967 are claimed exceed one million dollars and if the total number of employees at the new facility exceeds the total number of employees at the old facility by at least two;

[(17)] (23) "Same or substantially similar enhanced business enterprise", an enhanced business enterprise in which the nature of the products produced or sold, or activities conducted, are similar in character and use or are produced, sold, performed, or conducted in the same or similar manner as in another enhanced business enterprise.

135.963. IMPROVEMENTS EXEMPT, WHEN — AUTHORIZING RESOLUTION, CONTENTS — PUBLIC HEARING REQUIRED, NOTICE — CERTAIN PROPERTY EXEMPT FROM AD VALOREM TAXES, DURATION — TIME PERIOD — PROPERTY AFFECTED — ASSESSOR'S DUTIES. — 1. Improvements made to real property as such term is defined in section 137.010, RSMo, which are made in an enhanced enterprise zone subsequent to the date such zone or expansion thereto was designated, may, upon approval of an authorizing resolution by the governing authority having jurisdiction of the area in which the improvements are made, be exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more affected political subdivisions. **In addition to enhanced business enterprises, a speculative industrial or warehouse building constructed by a public entity or a private entity if the land is leased by a public entity may be subject to such exemption.**

2. Such authorizing resolution shall specify the percent of the exemption to be granted, the duration of the exemption to be granted, and the political subdivisions to which such exemption is to apply and any other terms, conditions, or stipulations otherwise required. A copy of the resolution shall be provided to the director within thirty calendar days following adoption of the resolution by the governing authority.

3. No exemption shall be granted until the governing authority holds a public hearing for the purpose of obtaining the opinions and suggestions of residents of political subdivisions to be affected by the exemption from property taxes. The governing authority shall send, by certified mail, a notice of such hearing to each political subdivision in the area to be affected and shall publish notice of such hearing in a newspaper of general circulation in the area to be affected by the exemption at least twenty days prior to the hearing but not more than thirty days prior to the hearing. Such notice shall state the time, location, date, and purpose of the hearing.

4. Notwithstanding subsection 1 of this section, at least one-half of the ad valorem taxes otherwise imposed on subsequent improvements to real property located in an enhanced enterprise zone **of enhanced business enterprises or speculative industrial or warehouse buildings as indicated in subsection 1 of this section** shall become and remain exempt from assessment and payment of ad valorem taxes of any political subdivision of this state or municipality thereof for a period of not less than ten years following the date such improvements were assessed, provided the improved properties are used for enhanced business enterprises. **The exemption for speculative buildings is subject to the approval of the governing authority for a period not to exceed two years, if the building is owned by a private entity and five years if the building is owned or ground leased by a public entity. This shall not preclude the building receiving an exemption for the remaining time period established by the governing authority if it was occupied by an enhanced business enterprise. The two and five year time periods indicated for speculative buildings shall not be an addition to the local abatement time period for such facility.**

5. No exemption shall be granted for a period more than twenty-five years following the date on which the original enhanced enterprise zone was designated by the department.

6. The provisions of subsection 1 of this section shall not apply to improvements made to real property begun prior to August 28, 2004.

7. The abatement referred to in this section shall not relieve the assessor or other responsible official from ascertaining the amount of the equalized assessed value of all taxable property annually as required by section 99.855, 99.957, or 99.1042, RSMo, and shall not have the effect of reducing the payments in lieu of taxes referred to in subdivision (2) of subsection 1 of section 99.845, RSMo, subdivision (2) of subsection 3 of section 99.957, RSMo, or subdivision (2) of subsection 3 of section 99.1042, RSMo, unless such reduction is set forth in the plan approved by the governing body of the municipality pursuant to subdivision (1) of subsection 1 of section 99.820, section 99.942, or section 99.1027, RSMo.

135.967. TAX CREDIT ALLOWED, DURATION — PROHIBITION ON RECEIVING OTHER TAX CREDITS — LIMITATIONS ON ISSUANCE OF TAX CREDITS — CAP — ELIGIBILITY OF

CERTAIN EXPANSIONS — EMPLOYEE CALCULATIONS — COMPUTATION OF CREDIT — FLOW-THROUGH TAX TREATMENTS — CREDITS MAY BE CLAIMED, WHEN — CERTIFICATES — REFUNDS — VERIFICATION PROCEDURES.

1. A taxpayer who establishes a new business facility may, upon approval by the department, be allowed a credit, each tax year for up to ten tax years, in an amount determined as set forth in this section, against the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo. No taxpayer shall receive multiple ten-year periods for subsequent expansions at the same facility.

2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes a new business facility in an enhanced enterprise zone and is awarded state tax credits under this section may not also receive tax credits under sections 135.100 to 135.150, sections 135.200 to 135.268, or section 135.535.

3. No credit shall be issued pursuant to this section unless:

(1) The number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed equals or exceeds two; and

(2) The new business facility investment for the taxable year for which the credit is claimed equals or exceeds one hundred thousand dollars.

4. The annual amount of credits allowed for an approved enhanced business enterprise shall be the lesser of:

(1) The annual amount authorized by the department for the enhanced business enterprise, which shall be limited to the projected state economic benefit, as determined by the department; or

(2) The sum calculated based upon the following:

(a) A credit of four hundred dollars for each new business facility employee employed within an enhanced enterprise zone;

(b) An additional credit of four hundred dollars for each new business facility employee who is a resident of an enhanced enterprise zone;

(c) An additional credit of four hundred dollars for each new business facility employee who is paid by the enhanced business enterprise a wage that exceeds the average wage paid within the county in which the facility is located, as determined by the department; and

(d) A credit equal to two percent of new business facility investment within an enhanced enterprise zone.

5. Prior to January 1, 2007, in no event shall the department authorize more than four million dollars annually to be issued for all enhanced business enterprises. After December 31, 2006, in no event shall the department authorize more than [seven] **fourteen** million dollars annually to be issued for all enhanced business enterprises.

6. If a facility, which does not constitute a new business facility, is expanded by the taxpayer, the expansion shall be considered eligible for the credit allowed by this section if:

(1) The taxpayer's new business facility investment in the expansion during the tax period in which the credits allowed in this section are claimed exceeds one hundred thousand dollars and if the number of new business facility employees engaged or maintained in employment at the expansion facility for the taxable year for which credit is claimed equals or exceeds two, and the total number of employees at the facility after the expansion is at least two greater than the total number of employees before the expansion; and

(2) The taxpayer's investment in the expansion and in the original facility prior to expansion shall be determined in the manner provided in subdivision [(12)] **(14)** of section 135.950.

7. The number of new business facility employees during any taxable year shall be determined by dividing by twelve the sum of the number of individuals employed on the last business day of each month of such taxable year. If the new business facility is in operation for less than the entire taxable year, the number of new business facility employees shall be determined by dividing the sum of the number of individuals employed on the last business day of each full calendar month during the portion of such taxable year during which the new

business facility was in operation by the number of full calendar months during such period. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility under subsection 6 of this section, and in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision [(12)] **(14)** of section 135.950, or subdivision [(16)] **(22)** of section 135.950, the number of new business facility employees at such facility shall be reduced by the average number of individuals employed, computed as provided in this subsection, at the facility during the taxable year immediately preceding the taxable year in which such expansion, acquisition, or replacement occurred and shall further be reduced by the number of individuals employed by the taxpayer or related taxpayer that was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation, or the establishment of a new facility.

8. In the case where a new business facility employee who is a resident of an enhanced enterprise zone for less than a twelve-month period is employed for less than a twelve-month period, the credits allowed by paragraph (b) of subdivision (2) of subsection 4 of this section shall be determined by multiplying four hundred dollars by a fraction, the numerator of which is the number of calendar days during the taxpayer's tax year for which such credits are claimed, in which the employee was a resident of an enhanced enterprise zone, and the denominator of which is three hundred sixty-five.

9. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility pursuant to subsection 6 of this section, and in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision [(12)] **(14)** of section 135.950 or subdivision [(16)] **(22)** of section 135.950, the amount of the taxpayer's new business facility investment in such facility shall be reduced by the average amount, computed as provided in subdivision [(12)] **(14)** of section 135.950 for new business facility investment, of the investment of the taxpayer, or related taxpayer immediately preceding such expansion or replacement or at the time of acquisition. Furthermore, the amount of the taxpayer's new business facility investment shall also be reduced by the amount of investment employed by the taxpayer or related taxpayer which was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation, or the establishment of a new facility.

10. For a taxpayer with flow-through tax treatment to its members, partners, or shareholders, the credit shall be allowed to members, partners, or shareholders in proportion to their share of ownership on the last day of the taxpayer's tax period.

11. Credits may not be carried forward but shall be claimed for the taxable year during which commencement of commercial operations occurs at such new business facility, and for each of the nine succeeding taxable years for which the credit is issued.

12. Certificates of tax credit authorized by this section may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department. The sale price cannot be less than seventy-five percent of the par value of such credits.

13. The director of revenue shall issue a refund to the taxpayer to the extent that the amount of credits allowed in this section exceeds the amount of the taxpayer's income tax.

14. Prior to the issuance of tax credits, the department shall verify through the department of revenue, or any other state department, that the tax credit applicant does not owe any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent fees or assessments levied by any state department and through the department of insurance that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization of the application for such tax credits,

except that the amount of credits issued shall be reduced by the applicant's tax delinquency. If the department of revenue or the department of insurance, or any other state department, concludes that a taxpayer is delinquent after June fifteenth but before July first of any year and the application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all available credits toward a tax delinquency, the administering agency shall notify the appropriate department, and that department shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of other provisions of law.

135.1150. CITATION OF LAW — DEFINITIONS — TAX CREDIT, AMOUNT — CLAIM APPLICATION — LIMITATION — TRANSFERABILITY OF CREDIT — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. This section shall be known and may be cited as the "Residential Treatment Agency Tax Credit Act".

2. As used in this section, the following terms mean:

- (1) "Certificate", a tax credit certificate issued under this section;
- (2) "Department", the Missouri department of social services;
- (3) "Eligible donation", donations received from a taxpayer by an agency that are used solely to provide direct care services to children who are residents of this state. Eligible donations may include cash, publicly traded stocks and bonds, and real estate that will be valued and documented according to rules promulgated by the department of social services. For purposes of this section, "direct care services" include but are not limited to increasing the quality of care and service for children through improved employee compensation and training;
- (4) "Qualified residential treatment agency" or "agency", a residential care facility that is licensed under section 210.484, RSMo, accredited by the Council on Accreditation (COA), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or the Commission on Accreditation of Rehabilitation Facilities (CARF), and is under contract with the Missouri department of social services to provide treatment services for children who are residents or wards of residents of this state, and that receives eligible donations. Any agency that operates more than one facility or at more than one location shall be eligible for the tax credit under this section only for any eligible donation made to facilities or locations of the agency which are licensed and accredited;
- (5) "Taxpayer", any of the following individuals or entities who make an eligible donation to an agency:
 - (a) A person, firm, partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed in chapter 143, RSMo;
 - (b) A corporation subject to the annual corporation franchise tax imposed in chapter 147, RSMo;
 - (c) An insurance company paying an annual tax on its gross premium receipts in this state;
 - (d) Any other financial institution paying taxes to the state of Missouri or any political subdivision of this state under chapter 148, RSMo;
 - (e) An individual subject to the state income tax imposed in chapter 143, RSMo;
 - (f) **Any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo.**

3. For all taxable years beginning on or after January 1, 2007, any taxpayer shall be allowed a credit against the taxes otherwise due under chapter 147, 148, or 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, in an amount equal to fifty percent of the amount of an eligible donation, subject to the restrictions in this section. The

amount of the tax credit claimed shall not exceed the amount of the taxpayer's state income tax liability in the tax year for which the credit is claimed. Any amount of credit that the taxpayer is prohibited by this section from claiming in a tax year shall not be refundable, but may be carried forward to any of the taxpayer's four subsequent taxable years.

4. To claim the credit authorized in this section, an agency may submit to the department an application for the tax credit authorized by this section on behalf of taxpayers. The department shall verify that the agency has submitted the following items accurately and completely:

- (1) A valid application in the form and format required by the department;
- (2) A statement attesting to the eligible donation received, which shall include the name and taxpayer identification number of the individual making the eligible donation, the amount of the eligible donation, and the date the eligible donation was received by the agency; and
- (3) Payment from the agency equal to the value of the tax credit for which application is made.

If the agency applying for the tax credit meets all criteria required by this subsection, the department shall issue a certificate in the appropriate amount.

5. An agency may apply for tax credits in an aggregate amount that does not exceed forty percent of the payments made by the department to the agency in the preceding twelve months.

6. Tax credits issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit shall have the same rights in the credit as the taxpayer. Whenever a certificate is assigned, transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed with the department specifying the name and address of the new owner of the tax credit or the value of the credit.

7. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

8. Under section 23.253, RSMo, of the Missouri sunset act:

- (1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2006, unless reauthorized by an act of the general assembly; and
- (2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and
- (3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

144.030. EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAXES. — 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and

144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824, RSMo; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation, slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a useable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant to section 301.010, RSMo. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes;

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, RSMo, in the transportation of persons or property;

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo. **There shall be a rebuttable presumption that the raw materials used in the primary manufacture of automobiles contain at least twenty-five percent recovered materials.** For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the air conservation commission which may uphold or reverse such action;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the Missouri clean water commission which may uphold or reverse such action;

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen,

home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, RSMo, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, RSMo, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

- (a) Used exclusively for agricultural purposes;
- (b) Used on land owned or leased for the purpose of producing farm products; and

(c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use;

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (4) of subsection 2 of this section;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property and utilities purchased for use or consumption directly or exclusively in the research and development of agricultural/biotechnology and plant genomics products and prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo;

(38) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located

outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(39) All purchases by a sports complex authority created under section 64.920, RSMo.

173.196. BUSINESS FIRM MAY MAKE DONATION TO HIGHER EDUCATION SCHOLARSHIP DONATION FUND, TAX CREDIT — AMOUNT OF CREDIT, LIMITATIONS, CARRY-OVER, TRANSFER — USE OF FUND — TAX CREDITS PROHIBITED, WHEN. — 1. Any business firm, as defined in section 32.105, RSMo, may make a donation to the "Missouri Higher Education Scholarship Donation Fund", which is hereby created in the state treasury. A donating business firm shall receive a tax credit as provided in this section equal to fifty percent of the amount of the donation, except that tax credits shall be awarded each fiscal year in the order donations are received and the amount of tax credits authorized shall total no more than two hundred and fifty thousand dollars for each fiscal year.

2. The department of revenue shall grant tax credits approved under this section which shall be applied in the order specified in subsection 1 of section 32.115, RSMo, until used. The tax credits provided under this section shall be refundable, and any tax credit not used in the fiscal year in which approved may be carried over the next five succeeding calendar or fiscal years until the full credit has been claimed. **Notwithstanding any other law to the contrary, any tax credits granted under this section may be assigned, transferred, sold, or otherwise conveyed without consent or approval. Such taxpayer, hereinafter the assignor for purposes of this section, may sell, assign, exchange, or otherwise transfer earned tax credits:**

(1) For no less than seventy-five percent of the par value of such credits; and

(2) In an amount not to exceed one hundred percent of annual earned credits.

3. No tax credit authorized under this section may be applied against any tax applied in a tax year beginning prior to January 1, 1995.

4. All revenues credited to the fund shall be used, subject to appropriations, to provide scholarships authorized under sections 173.197 to 173.199, and for no other purpose.

5. For all tax years beginning on or after January 1, 2005, no tax credits shall be authorized, awarded, or issued to any person or entity claiming any tax credit under this section.

173.796. TAX CREDIT FOR DONATIONS TO FUND — TAX CREDITS PROHIBITED, WHEN. — 1. As used in this section, the term "taxpayer" means an individual, a partnership, or a corporation as described in section 143.441 or 143.471, RSMo, **and includes any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo.**

2. Any taxpayer may make a contribution to the fund. Within the limits specified in subsection 3 of this section, a taxpayer shall be allowed a credit against the taxes imposed pursuant to chapter 143, RSMo, except for sections 143.191 to 143.265, RSMo, on that individual or entity of up to fifty percent of the total amount contributed to the fund, not to exceed one hundred thousand dollars per taxpayer.

3. The department of revenue shall administer the tax credits pursuant to this section, and shall certify eligibility for the tax credits in the order applications are received. The total amount of tax credits certified in any one calendar year shall not exceed five million dollars annually. Contributions of up to one hundred thousand dollars per annum per taxpayer may be certified by the department of revenue as a qualified contribution for purposes of receiving a tax credit under this program.

4. If the amount of tax credit exceeds the total tax liability for the year in which the tax credit is claimed, the amount that exceeds the state tax liability may be carried forward for credit against the taxes imposed pursuant to chapter 143, RSMo, except for sections 143.191 to

143.265, RSMo, for the succeeding ten years, or until the full credit is used, whichever occurs first.

5. For all tax years beginning on or after January 1, 2005, no tax credits shall be authorized, awarded, or issued to any person or entity claiming any tax credit under this section.

6. The provisions of this section shall become effective January 1, 1999.

178.716. VOCATIONAL SCHOOL DISTRICTS PERMITTED, PROCEDURE (BUTLER, STODDARD, WAYNE, RIPLEY, NEW MADRID, PEMISCOT, DUNKLIN, MISSISSIPPI, CAPE GIRARDEAU, BOLLINGER, AND SCOTT COUNTIES). — 1. Residents of a county of the third classification without a township form of government and with more than forty thousand eight hundred but fewer than forty thousand nine hundred inhabitants, a county of the third classification with a township form of government and with more than twenty-nine thousand seven hundred but fewer than twenty-nine thousand eight hundred inhabitants, a county of the third classification without a township form of government and with more than thirteen thousand two hundred but fewer than thirteen thousand three hundred inhabitants, a county of the third classification without a township form of government and with more than thirteen thousand five hundred but fewer than thirteen thousand six hundred inhabitants, a county of the second classification with more than nineteen thousand seven hundred but fewer than nineteen thousand eight hundred inhabitants, a county of the third classification without a township form of government and with more than twenty thousand but fewer than twenty thousand one hundred inhabitants, a county of the third classification with a township form of government and with more than thirty-three thousand one hundred but fewer than thirty-three thousand two hundred inhabitants, a county of the third classification without a township form of government and with more than thirteen thousand four hundred but fewer than thirteen thousand five hundred inhabitants, a county of the first classification with more than sixty-eight thousand six hundred but fewer than sixty-eight thousand seven hundred inhabitants, a county of the third classification without a township form of government and with more than twelve thousand but fewer than twelve thousand one hundred inhabitants, and a county of the third classification without a township form of government and with more than forty thousand four hundred but fewer than forty thousand five hundred inhabitants may organize a vocational school district in the manner provided in sections 178.770 to 178.780. Prior to the organization of a district under sections 178.770 to 178.890, the coordinating board for higher education shall establish standards for the organization of the district which shall include among other things:

- (1) Whether a vocational school is needed in the proposed district;
- (2) Whether the assessed valuation of taxable, tangible property in the proposed district is sufficient to adequately support the proposed vocational school; and
- (3) Whether there were a sufficient number of graduates of high school in the proposed district during the preceding year to support a vocational school in the proposed district.

2. When a district is organized, it shall be a body corporate and a subdivision of the state of Missouri and shall be known as "The Vocational School District of, Missouri" and, in that name, may sue and be sued, levy and collect taxes within the limitations of sections 178.770 to 178.890, issue bonds and possess the same corporate powers as common and seven-director school districts in this state, other than urban districts, except as herein otherwise provided.

178.895. CERTIFICATES, ISSUE OF, SALE OF — REFUNDING CERTIFICATES, ISSUED WHEN — PROCEDURE ON ISSUANCE — NOT DEEMED INDEBTEDNESS OF STATE OR POLITICAL SUBDIVISION — RULES AND REGULATIONS, DEPARTMENT OF ECONOMIC DEVELOPMENT TO PROMULGATE, PROCEDURE — TERMINATION OF SALES OF

CERTIFICATES, WHEN. — 1. To provide funds for the present payment of the costs of new jobs training programs, a community college district may borrow money and issue and sell certificates payable from a sufficient portion of the future receipts of payments authorized by the agreement including disbursements from the Missouri community college job training program to the special fund established by the district for each project. The total amount of outstanding certificates sold by all junior college districts shall not exceed twenty million dollars, unless an increased amount is authorized in writing by a majority of members of the Missouri job training joint legislative oversight committee. The certificates shall be marketed through financial institutions authorized to do business in Missouri. The receipts shall be pledged to the payment of principal of and interest on the certificates. Certificates may be sold at public sale or at private sale at par, premium, or discount of not less than ninety-five percent of the par value thereof, at the discretion of the board of trustees, and may bear interest at such rate or rates as the board of trustees shall determine, notwithstanding the provisions of section 108.170, RSMo, to the contrary. However, chapter 176, RSMo, does not apply to the issuance of these certificates. Certificates may be issued with respect to a single project or multiple projects and may contain terms or conditions as the board of trustees may provide by resolution authorizing the issuance of the certificates.

2. Certificates issued to refund other certificates may be sold at public sale or at private sale as provided in this section with the proceeds from the sale to be used for the payment of the certificates being refunded. The refunding certificates may be exchanged in payment and discharge of the certificates being refunded, in installments at different times or an entire issue or series at one time. Refunding certificates may be sold or exchanged at any time on, before, or after the maturity of the outstanding certificates to be refunded. They may be issued for the purpose of refunding a like, greater, or lesser principal amount of certificates and may bear a higher, lower, or equivalent rate of interest than the certificates being renewed or refunded.

3. Before certificates are issued, the board of trustees shall publish once a notice of its intention to issue the certificates, stating the amount, the purpose, and the project or projects for which the certificates are to be issued. A person may, within fifteen days after the publication of the notice, by action in the circuit court of a county in the district, appeal the decision of the board of trustees to issue the certificates. The action of the board of trustees in determining to issue the certificates is final and conclusive unless the circuit court finds that the board of trustees has exceeded its legal authority. An action shall not be brought which questions the legality of the certificates, the power of the board of trustees to issue the certificates, the effectiveness of any proceedings relating to the authorization of the project, or the authorization and issuance of the certificates from and after fifteen days from the publication of the notice of intention to issue.

4. The board of trustees shall determine if revenues provided in the agreement are sufficient to secure the faithful performance of obligations in the agreement.

5. Certificates issued under this section shall not be deemed to be an indebtedness of the state or the community college district or of any other political subdivision of the state and the principal and interest on such certificates shall be payable only from the sources provided in subdivision (1) of section 178.893 which are pledged in the agreement.

6. The department of economic development shall coordinate the new jobs training program, and may promulgate rules that districts will use in developing projects with new and expanding industrial new jobs training proposals which shall include rules providing for the coordination of such proposals with the service delivery areas established in the state to administer federal funds pursuant to the federal Job Training Partnership Act. No rule or portion of a rule promulgated under the authority of sections 178.892 to 178.896 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable and if any of

the powers vested with the general assembly pursuant to chapter 536, RSMo, including the ability to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

7. No community college district may sell certificates as described in this section after July 1, [2008] **2018**.

178.896. COMMUNITY COLLEGE JOB TRAINING PROGRAM FUND ESTABLISHED — ADMINISTRATION — EXPIRATION DATE. — 1. There is hereby established within the state treasury a special fund, to be known as the "Missouri Community College Job Training Program Fund", to be administered by the division of job development and training. The department of revenue shall credit to the community college job training program fund, as received, all new jobs credit from withholding remitted by employers pursuant to section 178.894. The fund shall also consist of any gifts, contributions, grants or bequests received from federal, private or other sources. The general assembly, however, shall not provide for any transfer of general revenue funds into the community college job training program fund. Moneys in the Missouri community college job training program fund shall be disbursed to the division of job development and training pursuant to regular appropriations by the general assembly. The division shall disburse such appropriated funds in a timely manner into the special funds established by community college districts for projects, which funds shall be used to pay program costs, including the principal of, premium, if any, and interest on certificates issued by the district to finance or refinance, in whole or in part, a project. Such disbursements by the division of job development and training shall be made to the special fund for each project in the same proportion as the new jobs credit from withholding remitted by the employer participating in such project bears to the total new jobs credit from withholding remitted by all employers participating in projects during the period for which the disbursement is made. Moneys for new jobs training programs established under the provisions of sections 178.892 to 178.896 shall be obtained from appropriations made by the general assembly from the Missouri community college job training program fund. All moneys remaining in the Missouri community college job training program fund at the end of any fiscal year shall not lapse to the general revenue fund, as provided in section 33.080, RSMo, but shall remain in the Missouri community college job training program fund.

2. The department of revenue shall develop such forms as are necessary to demonstrate accurately each employer's new jobs credit from withholding paid into the Missouri community college job training program fund. The new jobs credit from withholding shall be accounted as separate from the normal withholding tax paid to the department of revenue by the employer. Reimbursements made by all employers to the Missouri community college job training program fund shall be no less than all allocations made by the division of job development and training to all community college districts for all projects. The employer shall remit the amount of the new job credit to the department of revenue in the same manner as provided in sections 143.191 to 143.265, RSMo.

3. Sections 178.892 to 178.896 shall expire July 1, [2018] **2028**.

348.300. DEFINITIONS. — As used in sections 348.300 to 348.318, the following terms mean:

(1) "Commercial activity located in Missouri", any research, development, prototype fabrication, and subsequent precommercialization activity, or any activity related thereto, conducted in Missouri for the purpose of producing a service or a product or process for manufacture, assembly or sale or developing a service based on such a product or process by any person, corporation, partnership, joint venture, unincorporated association, trust or other organization doing business in Missouri. Subsequent to January 1, 1999, a commercial activity

located in Missouri shall mean only such activity that is located within a distressed community, as defined in section 135.530, RSMo;

(2) "Follow-up capital", capital provided to a commercial activity located in Missouri in which a qualified fund has previously invested seed capital or start-up capital and which does not exceed ten times the amount of such seed and start-up capital;

(3) **"Person", any individual, corporation, partnership, or other entity, including any charitable corporation which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo;**

(4) "Qualified contribution", cash contribution to a qualified fund;

[(4)] (5) "Qualified economic development organization", any corporation organized under the provisions of chapter 355, RSMo, which has as of January 1, 1991, obtained a contract with the department of economic development to operate an innovation center to promote, assist and coordinate the research and development of new services, products or processes in the state of Missouri; and the Missouri technology corporation organized pursuant to the provisions of sections 348.253 to 348.266;

[(5)] (6) "Qualified fund", any corporation, partnership, joint venture, unincorporated association, trust or other organization which is established under the laws of Missouri after December 31, 1985, which meets all of the following requirements established by this subdivision. The fund shall have as its sole purpose and business the making of investments, of which at least ninety percent of the dollars invested shall be qualified investments. The fund shall enter into a contract with one or more qualified economic development organizations which shall entitle the qualified economic development organizations to receive not less than ten percent of all distributions of equity and dividends or other earnings of the fund. Such contracts shall require the qualified fund to transfer to the Missouri technology corporation organized pursuant to the provisions of sections 348.253 to 348.266, this interest and make corresponding distributions thereto in the event the qualified economic development organization holding such interest is dissolved or ceases to do business for a period of one year or more;

[(6)] (7) "Qualified investment", any investment of seed capital, start-up capital, or follow-up capital in any commercial activity located in Missouri;

[(7) "Person", any individual, corporation, partnership or other entity;]

(8) "Seed capital", capital provided to a commercial activity located in Missouri for research, development and precommercialization activities to prove a concept for a new product or process or service, and for activities related thereto;

(9) "Start-up capital", capital provided to a commercial activity located in Missouri for use in preproduction product development or service development or initial marketing thereof, and for activities related thereto;

(10) "State tax liability", any state tax liability incurred by a taxpayer under the provisions of chapters 143, 147 and 148, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions;

(11) "Uninvested capital", the amount of any distribution, other than of earnings, by a qualified fund made within five years of the issuance of a certificate of tax credit as provided by sections 348.300 to 348.318; or the portion of all qualified contributions to a qualified fund which are not invested as qualified investments within five years of the issuance of a certificate of tax credit as provided by sections 348.300 to 348.318 to the extent that the amount not so invested exceeds ten percent of all such qualified contributions.

620.495. SMALL BUSINESS INCUBATOR PROGRAM — DEFINITIONS — TAX CREDIT. —

1. This section shall be known as the "Small Business Incubators Act".

2. As used in this section, unless the context clearly indicates otherwise, the following words and phrases shall mean:

(1) "Department", the department of economic development;

(2) "Incubator", a program in which small units of space may be leased by a tenant and in which management maintains or provides access to business development services for use by tenants or a program without infrastructure in which participants avail themselves of business development services to assist in the growth of their start-up small businesses;

(3) "Local sponsor" or "sponsor", an organization which enters into a written agreement with the department to establish, operate and administer a small business incubator program or to provide funding to an organization which operates such a program;

(4) "Participant", a sole proprietorship, business partnership or corporation operating a business for profit through which the owner avails himself or herself of business development services in an incubator program;

(5) "Tenant", a sole proprietorship, business partnership or corporation operating a business for profit and leasing or otherwise occupying space in an incubator.

3. There is hereby established under the direction of the department a loan, loan guarantee and grant program for the establishment, operation and administration of small business incubators, to be known as the "Small Business Incubator Program". A local sponsor may submit an application to the department to obtain a loan, loan guarantee or grant to establish an incubator. Each application shall:

(1) Demonstrate that a program exists that can be transformed into an incubator at a specified cost;

(2) Demonstrate the ability to directly provide or arrange for the provision of business development services for tenants and participants of the incubator. These services shall include, but need not be limited to, financial consulting assistance, management and marketing assistance, business education, and physical services;

(3) Demonstrate a potential for sustained use of the incubator program by eligible tenants and participants, through a market study or other means;

(4) Demonstrate the ability to manage and operate the incubator program;

(5) Include such other information as the department may require through its guidelines.

4. The department shall review and accept applications based on the following criteria:

(1) Ability of the local sponsor to carry out the provisions of this section;

(2) Economic impact of the incubator on the community;

(3) Conformance with areawide and local economic development plans, if such exist;

(4) Location of the incubator, in order to encourage geographic distribution of incubators across the state.

5. Loans, loan guarantees and grants shall be administered in the following manner:

(1) Loans awarded or guaranteed and grants awarded shall be used only for the acquisition and leasing of land and existing buildings, the rehabilitation of buildings or other facilities, construction of new facilities, the purchase of equipment and furnishings which are necessary for the creation and operation of the incubator, and business development services including, but not limited to, business management advising and business education;

(2) Loans, loan guarantees and grants may not exceed fifty percent of total eligible project costs;

(3) Payment of interest and principal on loans may be deferred at the discretion of the department.

6. A local sponsor, or the organization receiving assistance through the local sponsor, shall have the following responsibilities and duties in establishing and operating an incubator with assistance from the small business incubator program:

(1) Secure title on a facility for the program or a lease of a facility for the program;

(2) Manage the physical development of the incubator program, including the provision of common conference or meeting space;

(3) Furnish and equip the program to provide business services to the tenants and participants;

(4) Market the program and secure eligible tenants and participants;

(5) Provide financial consulting, marketing and management assistance services or arrange for the provision of these services for tenants and participants of the incubator, including assistance in accessing private financial markets;

(6) Set rental and service fees;

(7) Encourage the sharing of ideas between tenants and participants and otherwise aid the tenants and participants in an innovative manner while they are within the incubator;

(8) Establish policies and criteria for the acceptance of tenants and participants into the incubator and for the termination of occupancy of tenants so as to maximize the opportunity to succeed for the greatest number of tenants, consistent with those specified in this section.

7. The department:

(1) May adopt such rules, statements of policy, procedures, forms and guidelines as may be necessary for the implementation of this section;

(2) May make loans, loan guarantees and grants to local sponsors for incubators;

(3) Shall ensure that local sponsors receiving loans, loan guarantees or grants meet the conditions of this section;

(4) Shall receive and evaluate annual reports from local sponsors. Such annual reports shall include, but need not be limited to, a financial statement for the incubator, evidence that all tenants and participants in the program are eligible under the terms of this section, and a list of companies in the incubator.

8. The department of economic development is also hereby authorized to review any previous loans made under this program and, where appropriate in the department's judgment, convert such loans to grant status.

9. On or before January first of each year, the department shall provide a report to the governor, the chief clerk of the house of representatives and the secretary of the senate which shall include, but need not be limited to:

(1) The number of applications for incubators submitted to the department;

(2) The number of applications for incubators approved by the department;

(3) The number of incubators created through the small business incubator program;

(4) The number of tenants and participants engaged in each incubator;

(5) The number of jobs provided by each incubator and tenants and participant of each incubator;

(6) The occupancy rate of each incubator;

(7) The number of firms still operating in the state after leaving incubators and the number of jobs they have provided.

10. There is hereby established in the state treasury a special fund to be known as the "Missouri Small Business Incubators Fund", which shall consist of all moneys which may be appropriated to it by the general assembly, and also any gifts, contributions, grants or bequests received from federal, private or other sources. Moneys for loans, loan guarantees and grants under the small business incubator program may be obtained from appropriations made by the general assembly from the Missouri small business incubators fund. Any moneys remaining in the Missouri small business incubators fund at the end of any fiscal year shall not lapse to the general revenue fund, as provided in section 33.080, RSMo, but shall remain in the Missouri small business incubators fund.

11. For any taxable year beginning after December 31, 1989, a taxpayer, **including any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo**, shall be entitled to a tax credit against any tax otherwise due under the provisions of chapter 143, RSMo, or chapter 147, RSMo, or chapter 148, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, in the amount of fifty percent of any amount contributed by the taxpayer to the Missouri small business incubators fund during the taxpayer's tax year or any contribution by the taxpayer to a local sponsor after the local sponsor's application has been accepted and approved by the department.

The tax credit allowed by this subsection shall be claimed by the taxpayer at the time he files his return and shall be applied against the income tax liability imposed by chapter 143, RSMo, or chapter 147, RSMo, or chapter 148, RSMo, after all other credits provided by law have been applied. That portion of earned tax credits which exceeds the taxpayer's tax liability may be carried forward for up to five years. The aggregate of all tax credits authorized under this section shall not exceed five hundred thousand dollars in any taxable year.

12. Notwithstanding any provision of Missouri law to the contrary, any taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection 11 of this section under the terms and conditions prescribed in subdivisions (1) and (2) of this subsection. Such taxpayer, hereinafter the assignor for the purpose of this subsection, may sell, assign, exchange or otherwise transfer earned tax credits:

(1) For no less than seventy-five percent of the par value of such credits; and

(2) In an amount not to exceed one hundred percent of annual earned credits. The taxpayer acquiring earned credits, hereinafter the assignee for the purpose of this subsection, may use the acquired credits to offset up to one hundred percent of the tax liabilities otherwise imposed by chapter 143, RSMo, or chapter 147, RSMo, or chapter 148, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo. Unused credits in the hands of the assignee may be carried forward for up to five years. The assignor shall enter into a written agreement with the assignee establishing the terms and conditions of the agreement and shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective day of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The director of the department of economic development shall prescribe the method for submitting applications for claiming the tax credit allowed under subsection 11 of this section and shall, if the application is approved, certify to the director of revenue that the taxpayer claiming the credit has satisfied all the requirements specified in this section and is eligible to claim the credit.

620.511. BOARD ESTABLISHED, PURPOSE, MEETINGS, MEMBERS, TERMS, COMPENSATION FOR EXPENSES. — 1. There is hereby established the "Missouri Workforce Investment Board", hereinafter referred to as "the board" in sections 620.511 to 620.513.

2. The purpose of the board is to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, and earnings of participants, and increase occupational skill attainment by participants, and, as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the state of Missouri. The board shall be the state's advisory board pertaining to workforce preparation policy.

3. The board shall meet the requirements of the federal Workforce Investment Act of 1998, hereinafter referred to as the "WIA", P.L. 105-220, as amended. Should another federal law supplant the WIA, all references in sections 620.511 to 620.513 to the WIA shall apply as well to the new federal law.

4. Composition of the board shall comply with the WIA. Board members appointed by the governor shall be subject to the advice and consent of the senate. Consistent with the requirements of the WIA, the governor shall designate one member of the board to be its chairperson.

5. Except as otherwise provided in subsection 6 of this section, each member of the board shall serve for a term of four years, subject to the pleasure of the governor, and until a successor is duly appointed. In the event of a vacancy on the board, the vacancy shall be filled in the same manner as the original appointment and said replacement shall serve the remainder of the original appointee's unexpired term.

6. Of the members initially appointed to the board, one-fourth shall be appointed for a term of four years, one-fourth shall be appointed for a term of three years, one-fourth

shall be appointed for a term of two years, and one-fourth shall be appointed for a term of one year.

7. Board members shall receive no compensation, but shall be reimbursed for all necessary expenses actually incurred in the performance of their duties.

620.512. BYLAWS TO BE ESTABLISHED — RESTRICTION ON OPERATIONS OF BOARD — RULEMAKING AUTHORITY. — 1. The board shall establish bylaws governing its organization, operation, and procedure consistent with sections 620.511 to 620.513, and consistent with the WIA.

2. The board shall meet at least four times each year at the call of the chairperson.

3. In order to assure objective management and oversight, the board shall not operate programs or provide services directly to eligible participants, but shall exist solely to plan, coordinate, and monitor the provisions of such programs and services. A member of the board may not vote on a matter under consideration by the board that regards the provision of services by the member or by an entity that the member represents or would provide direct financial benefit to the member or the immediate family of the member. A member of the board may not engage in any other activity determined by the governor to constitute a conflict of interest.

4. The composition and the roles and responsibilities of the board membership may be amended to comply with any succeeding federal or state legislative or regulatory requirements governing workforce investment activities, except that the procedure for such change shall be outlined in state rules and regulations and adopted in the bylaws of the board.

5. The department of economic development shall provide professional, technical, and clerical staff for the board.

6. The board may promulgate any rules and regulations necessary to administer the provisions of sections 620.511 to 620.513. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

620.513. DUTIES OF THE BOARD, REPORT — LIMITATION ON AUTHORITY. — 1. The board shall assist the governor with the functions described in section 111(d) of the WIA 29 U.S.C. 2821d and any regulations issued pursuant to the WIA.

2. The board shall submit an annual report of its activities to the governor, the speaker of the house of representatives, and the president pro tem of the senate no later than January thirty-first of each year.

3. Nothing in sections 620.511 to 620.513 shall be construed to require or allow the board to assume or supersede the statutory authority granted to, or impose any duties or requirements on, the state coordinating board for higher education, the governing boards of the state's public colleges and universities, the state board of education, or any local educational agencies.

620.638. DEFINITIONS. — As used in sections 620.635 to 620.653, the following terms mean:

(1) "Board", the Missouri seed capital investment board, as established pursuant to section 620.641;

(2) "Committed contributions", the total amount of qualified contributions that are committed to a qualifying fund by contractual agreement;

(3) "Corporation", the Missouri technology corporation as established pursuant to section 348.251, RSMo;

(4) "Department", the department of economic development;

(5) "Director", the director of the department of economic development;

(6) "Follow-up capital", capital provided to a qualified business in which a qualified fund has previously invested seed capital or start-up capital. No more than forty percent of the qualified contributions to a qualified fund may be used for follow-up capital, and no qualified contributions which generate tax credits before the second round of allocations as authorized by section 620.650 shall be used for follow-up capital investments;

(7) "Person", any individual, corporation, partnership, limited liability company or other entity, **including any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo;**

(8) "Positive cash flow", total cash receipts from sales or services, but not from investments or loans, exceeding total cash expenditures as calculated on a fiscal year basis;

(9) "Qualified business", any independently owned and operated business which is headquartered and located in Missouri and which is involved in or intends to be involved in commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce. Such a business shall maintain its headquarters in Missouri for a period of at least three years from the date of receipt of a qualified investment or be subject to penalties pursuant to section 620.017;

(10) "Qualified contribution", cash contributions to a qualified fund pursuant to the terms of contractual agreements made between the qualified fund and a qualified economic development organization authorized by the board to enter into such contracts;

(11) "Qualified economic development organization", any corporation organized pursuant to the provisions of chapter 355, RSMo, that, as of January 1, 1991, had obtained a contract with the department to operate an innovation center to promote, assist and coordinate the research and development of new services, products or processes in this state;

(12) "Qualified fund", a fund established by any corporation, partnership, joint venture, unincorporated association, trust or other organization established pursuant to the laws of Missouri and approved by the board or the corporation;

(13) "Qualified investment", any investment of seed capital, start-up capital or follow-up capital in a qualified business that does not cause more than ten percent of all the qualified contributions to a qualified fund to be invested in a single qualified business;

(14) "Seed capital", capital provided to a qualified business for research, development and precommercialization activities to prove a concept for a new product, process or service, and for activities related thereto; provided that, seed capital shall not be provided to any business which in a past fiscal year has experienced a positive cash flow;

(15) "Start-up capital", capital provided to a qualified business for use in preproduction product development, service development or initial marketing thereof; provided that, start-up capital shall not be provided to any business which has experienced a positive cash flow in a past fiscal year;

(16) "Uninvested capital", that portion of any qualified contribution to a qualified fund, other than management fees not to exceed three percent per year of committed contributions, qualified investments and other expenses or fees authorized by the board, that is not invested as a qualified investment within ten years of its receipt.

620.1039. TAX CREDIT FOR QUALIFIED RESEARCH EXPENSES, EXCEPTION — CERTIFICATION BY DIRECTOR OF ECONOMIC DEVELOPMENT — TRANSFER OF CREDITS, APPLICATION, RESTRICTIONS AND PROCEDURE — LIMITATIONS ON CREDIT — TAX CREDITS

PROHIBITED, WHEN. — 1. As used in this section, the term "taxpayer" means an individual, a partnership, **or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo,** or a corporation as described in section 143.441 or 143.471, RSMo, or section 148.370, RSMo, and the term "qualified research expenses" has the same meaning as prescribed in 26 U.S.C. 41.

2. For tax years beginning on or after January 1, 2001, the director of the department of economic development may authorize a taxpayer to receive a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, or chapter 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in an amount up to six and one-half percent of the excess of the taxpayer's qualified research expenses, as certified by the director of the department of economic development, within this state during the taxable year over the average of the taxpayer's qualified research expenses within this state over the immediately preceding three taxable years; except that, no tax credit shall be allowed on that portion of the taxpayer's qualified research expenses incurred within this state during the taxable year in which the credit is being claimed, to the extent such expenses exceed two hundred percent of the taxpayer's average qualified research expenses incurred during the immediately preceding three taxable years.

3. The director of economic development shall prescribe the manner in which the tax credit may be applied for. The tax credit authorized by this section may be claimed by the taxpayer to offset the tax liability imposed by chapter 143, RSMo, or chapter 148, RSMo, that becomes due in the tax year during which such qualified research expenses were incurred. Where the amount of the credit exceeds the tax liability, the difference between the credit and the tax liability may only be carried forward for the next five succeeding taxable years or until the full credit has been claimed, whichever first occurs. The application for tax credits authorized by the director pursuant to subsection 2 of this section shall be made no later than the end of the taxpayer's tax period immediately following the tax period for which the credits are being claimed.

4. Certificates of tax credit issued pursuant to this section may be transferred, sold or assigned by filing a notarized endorsement thereof with the department which names the transferee and the amount of tax credit transferred. The director of economic development may allow a taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates of tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax year commencing on or after January 1, 1996, and ending not later than December 31, 1999. Such taxpayer shall file, by December 31, 2001, an application with the department which names the transferee, the amount of tax credit desired to be transferred, and a certification that the funds received by the applicant as a result of the transfer, sale or assignment of the tax credit shall be expended within three years at the state university for the sole purpose of conducting research activities agreed upon by the department, the taxpayer and the state university. Failure to expend such funds in the manner prescribed pursuant to this section shall cause the applicant to be subject to the provisions of section 620.017.

5. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, including the ability to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

6. The aggregate of all tax credits authorized pursuant to this section shall not exceed nine million seven hundred thousand dollars in any year.

7. For all tax years beginning on or after January 1, 2005, no tax credits shall be approved, awarded, or issued to any person or entity claiming any tax credit under this section.

620.1878. DEFINITIONS. — For the purposes of sections 620.1875 to 620.1890, the following terms shall mean:

(1) **"Approval", a document submitted by the department to the qualified company that states the benefits that may be provided by this program;**

(2) **"Average wage", the new payroll divided by the number of new jobs;**

[(2)] (3) **"Commencement of operations", the starting date for the qualified company's first new employee, which must be no later than twelve months from the date of the [proposal] approval;**

[(3)] (4) **"County average wage", the average wages in each county as determined by the department for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of determining eligibility. The department shall publish the county average wage for each county at least annually. Notwithstanding the provisions of this subdivision to the contrary, for any qualified company that in conjunction with their project is relocating employees from a Missouri county with a higher county average wage, the company shall obtain the endorsement of the governing body of the community from which jobs are being relocated or the county average wage for their project shall be the county average wage for the county from which the employees are being relocated;**

[(4)] (5) **"Department", the Missouri department of economic development;**

[(5)] (6) **"Director", the director of the department of economic development;**

[(6)] (7) **"Employee", a person employed by a qualified company;**

[(7)] **"Full-time equivalent employees", employees of the qualified company converted to reflect an equivalent of the number of full-time, year-round employees. The method for converting part-time and seasonal employees into an equivalent number of full-time, year-round employees shall be published in a rule promulgated by the department as authorized in section 620.1884;**

(8) **"Full-time[, year-round] employee", an employee of the qualified company that [works] is scheduled to work an average of at least thirty-five hours per week for a twelve-month period, and one for which the qualified company offers health insurance and pays at least fifty percent of such insurance premiums;**

(9) **"High-impact project", a qualified company that, within two years from commencement of operations, creates one hundred or more new jobs;**

(10) **"Local incentives", the present value of the dollar amount of direct benefit received by a qualified company for a project facility from one or more local political subdivisions, but shall not include loans or other funds provided to the qualified company that must be repaid by the qualified company to the political subdivision;**

(11) **"NAICS", the 1997 edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS sector, subsector, industry group or industry identified in this section shall include its corresponding classification in subsequent federal industry classification systems;**

(12) **"New direct local revenue", the present value of the dollar amount of direct net new tax revenues of the local political subdivisions likely to be produced by the project over a ten-year period as calculated by the department, excluding local earnings tax, and net new utility revenues, provided the local incentives include a discount or other direct incentives from utilities owned or operated by the political subdivision;**

(13) "New investment", the purchase or leasing of new tangible assets to be placed in operation at the project facility, which will be directly related to the new jobs;

(14) "New job", the number of full-time[, year-round] employees located at the project facility that exceeds the project facility base employment less any decrease in the number of full-time [equivalent] employees at related facilities below the related facility base employment. **No job that was created prior to the date of the notice of intent shall be deemed a new job. An employee that spends less than fifty percent of the employee's work time at the facility is still considered to be located at a facility if the employee receives his or her directions and control from that facility, is on the facility's payroll, one hundred percent of the employee's income from such employment is Missouri income, and the employee is paid at or above the state average wage;**

(15) "New payroll", [the amount of wages paid by a qualified company to employees in new jobs] **the amount of taxable wages of full-time employees, excluding owners, located at the project facility that exceeds the project facility base payroll. If full-time employment at related facilities is below the related facility base employment, any decrease in payroll for full-time employees at the related facilities below that related facility base payroll shall also be subtracted to determine new payroll;**

(16) "Notice of intent", a form developed by the department, completed by the qualified company and submitted to the department which states the qualified company's intent to hire new jobs and request benefits under this program;

(17) "Percent of local incentives", the amount of local incentives divided by the amount of new direct local revenue;

(18) "Program", the Missouri quality jobs program provided in sections 620.1875 to 620.1890;

(19) "Project facility", the building used by a qualified company at which the new jobs and new investment will be located. A project facility may include separate buildings that are located within one mile of each other such that their purpose and operations are interrelated;

(20) "Project facility base employment", **the greater of the number of full-time employees located at the project facility on the date of the notice of intent or** for the twelve-month period prior to the date of the [proposal] **notice of intent**, the average number of full-time [equivalent] employees located at the project facility. In the event the project facility has not been in operation for a full twelve-month period, [project facility base employment is] the average number of full-time [equivalent] employees for the number of months the project facility has been in operation prior to the date of the [proposal] **notice of intent**;

(21) **"Project facility base payroll", the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at the project facility in the twelve months prior to the notice of intent, not including the payroll of the owners of the qualified company unless the qualified company is participating in an employee stock ownership plan. For purposes of calculating the benefits under this program, the amount of base payroll shall increase each year based on an appropriate measure, as determined by the department;**

(22) "Project period", the time period that the benefits are provided to a qualified company;

[(22) "Proposal", a document submitted by the department to the qualified company that states the benefits that may be provided by this program. The effective date of such proposal cannot be prior to the commencement of operations. The proposal shall not offer benefits regarding any jobs created prior to its effective date unless the proposal is for a job retention project;]

(23) "Qualified company", a firm, partnership, joint venture, association, private or public corporation whether organized for profit or not, or headquarters of such entity registered to do business in Missouri that is the owner or operator of a project facility, **offers health insurance to all full-time employees of all facilities located in this state, and pays at least fifty percent**

of such insurance premiums. For the purposes of sections 620.1875 to 620.1890, the term "qualified company" shall not include:

- (a) Gambling establishments (NAICS industry group 7132);
- (b) Retail trade establishments (NAICS sectors 44 and 45);
- (c) Food and drinking places (NAICS subsector 722);
- (d) [Utilities regulated by the Missouri public service commission] **Public utilities (NAICS 221 including water and sewer services);**
- (e) Any company that is delinquent in the payment of any nonprotested taxes or any other amounts due the state or federal government or any other political subdivision of this state; [or]
- (f) Any company that has filed for or has publicly announced its intention to file for bankruptcy protection;
- (g) **Educational services (NAICS sector 61);**
- (h) **Religious organizations (NAICS industry group 8131); or**
- (i) **Public administration (NAICS sector 92).**

Notwithstanding any provision of this section to the contrary, the headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate territory. In the event a national, state, or regional headquarters operation is not the predominant activity of a project facility, the new jobs and investment of such headquarters operation is considered eligible for benefits under this section if the other requirements are satisfied;

- (24) "Related company" means:
 - (a) A corporation, partnership, trust, or association controlled by the qualified company;
 - (b) An individual, corporation, partnership, trust, or association in control of the qualified company; or
 - (c) Corporations, partnerships, trusts or associations controlled by an individual, corporation, partnership, trust or association in control of the qualified company. As used in this subdivision, ["control of a corporation"] shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote, ["control of a partnership or association"] shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association, ["control of a trust"] shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust, and ownership shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;
- (25) "Related facility", a facility operated by the qualified company or a related company located in this state that is directly related to the operations of the project facility;
- (26) "Related facility base employment", **the greater of the number of full-time employees located at all related facilities on the date of the notice of intent or** for the twelve-month period prior to the date of the [proposal] **notice of intent**, the average number of full-time [equivalent] employees located at all related facilities of the qualified company or a related company located in this state;
- (27) **"Related facility base payroll", the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at a related facility in the twelve months prior to the filing of the notice of intent, not including the payroll of the owners of the qualified company unless the qualified company is participating in an employee stock ownership plan. For purposes of calculating the benefits under this program, the amount of related facility base payroll shall increase each year based on an appropriate measure, as determined by the department;**
- (28) "Rural area", a county in Missouri with a population less than seventy-five thousand or that does not contain an individual city with a population greater than fifty thousand according to the most recent federal decennial census;

[(28)] **(29)** "Small and expanding business project", a qualified company that within two years of the date of the [proposal] **approval** creates a minimum of twenty new jobs if the project facility is located in a rural area or a minimum of forty new jobs if the project facility is not located in a rural area and creates fewer than one hundred new jobs regardless of the location of the project facility;

[(29)] **(30)** "Tax credits", tax credits issued by the department to offset the state income taxes imposed by [chapter] **chapters 143 and 148**, RSMo, or which may be sold or refunded as provided for in this program;

[(30)] **(31)** "Technology business project", a qualified company that within two years of the date of the [proposal] **approval** creates a minimum of ten new jobs [with at least seventy-five percent of the new jobs directly] involved in the operations of a technology company as determined by a regulation promulgated by the department under the provisions of section 620.1884 [and] **or** classified by NAICS codes; **or which researches, develops, or manufactures power system technology for: aerospace; space; defense; hybrid vehicles; or implantable or wearable medical devices;**

[(31)] **(32)** "Withholding tax", the state tax imposed by sections 143.191 to 143.265, RSMo. **For purposes of this program, the withholding tax shall be computed using a schedule as determined by the department based on average wages.**

620.1881. PROJECT NOTICE OF INTENT, DEPARTMENT TO RESPOND WITH A PROPOSAL OR A REJECTION — BENEFITS AVAILABLE — EFFECT ON WITHHOLDING TAX — PROJECTS ELIGIBLE FOR BENEFITS — ANNUAL REPORT — CAP ON TAX CREDITS — ALLOCATION OF TAX CREDITS. — 1. The department of economic development shall respond within thirty days to a company who provides a notice of intent with either [a proposal] **an approval** or a rejection of the notice of intent. **The department shall give preference to qualified companies and projects targeted at an area of the state which has recently been classified as a disaster area by the federal government.** Failure to respond on behalf of the department of economic development shall result in the notice of intent being deemed [a proposal] **an approval** for the purposes of this section. A qualified company who is provided [a proposal] **an approval** for a project shall be allowed a benefit as provided in this program in the amount and duration provided in this section. A qualified company may receive additional periods for subsequent new jobs at the same facility after the full initial period if the minimum thresholds are met as set forth in sections 620.1875 to 620.1890. There is no limit on the number of periods a qualified company may participate in the program, as long as the minimum thresholds are achieved and the qualified company provides the department with the required reporting and is in proper compliance for this program or other state programs. A qualified company may elect to file a notice of intent to start a new project period concurrent with an existing project period if the minimum thresholds are achieved and the qualified company provides the department with the required reporting and is in proper compliance for this program and other state programs; however, the qualified company may not receive any further benefit under the original [proposal] **approval** for jobs created after the date of the new notice of intent, and any jobs created before the new notice of intent may not be included as new jobs for the purpose of benefit calculation in relation to the new [proposal] **approval**.

2. Notwithstanding any provision of law to the contrary, any qualified company that is awarded benefits under this program may not [also] **simultaneously** receive tax credits or exemptions under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906, RSMo, [for the same new jobs] at the **same** project facility. The benefits available to the company under any other state programs for which the company is eligible and which utilize withholding tax from the new jobs of the company must first be credited to the other state program before the withholding retention level applicable under the Missouri quality jobs act will begin to accrue. These other state programs include, but are not limited to, the new jobs training program under sections 178.892 to 178.896, RSMo, the job

retention program under sections 178.760 to 178.764, RSMo, the real property tax increment allocation redevelopment act, sections 99.800 to 99.865, RSMo, or the Missouri downtown and rural economic stimulus act under sections 99.915 to 99.980, RSMo. If any qualified company also participates in the new jobs training program in sections 178.892 to 178.896, RSMo, the company shall retain no withholding tax, but the department shall issue a refundable tax credit for the full amount of benefit allowed under this subdivision. **The calendar year annual maximum amount of tax credits which may be issued to a qualifying company that also participates in the new job training program shall be increased by an amount equivalent to the withholding tax retained by that company under the new jobs training program. However, if the combined benefits of the quality jobs program and the new jobs training program exceed the projected state benefit of the project, as determined by the department of economic development through a cost-benefit analysis, the increase in the maximum tax credits shall be limited to the amount that would not cause the combined benefits to exceed the projected state benefit. Any taxpayer who is awarded benefits under this program who knowingly hires individuals who are not allowed to work legally in the United States shall immediately forfeit such benefits and shall repay the state an amount equal to any state tax credits already redeemed and any withholding taxes already retained.**

3. The types of projects and the amount of benefits to be provided are:

(1) Small and expanding business projects: in exchange for the consideration provided by the new tax revenues and other economic [stimulus] **stimuli** that will be generated by the new jobs created by the program, a qualified company may retain an amount equal to the withholding tax **as calculated under subdivision (32) of section 620.1878** from the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, for a period of three years from the date the required number of new jobs were created if the average wage of the new payroll equals or exceeds the county average wage or for a period of five years from the date the required number of new jobs were created if the average wage of the new payroll equals or exceeds one hundred twenty percent of the county average wage;

(2) Technology business projects: in exchange for the consideration provided by the new tax revenues and other economic [stimulus] **stimuli** that will be generated by the new jobs created by the program, a qualified company may retain an amount equal to a maximum of five percent of new payroll for a period of five years from the date the required number of jobs were created from the withholding tax of the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, if the average wage of the new payroll equals or exceeds the county average wage. An additional one-half percent of new payroll may be added to the five percent maximum if the average wage of the new payroll in any year exceeds one hundred twenty percent of the county average wage in the county in which the project facility is located, plus an additional one-half percent of new payroll may be added if the average wage of the new payroll in any year exceeds one hundred forty percent of the average wage in the county in which the project facility is located. The department shall issue a refundable tax credit for any difference between the amount of benefit allowed under this subdivision and the amount of withholding tax retained by the company, in the event the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified company under this subdivision. The calendar year annual maximum amount of tax credits that may be issued to any qualified company for a project or combination of projects is five hundred thousand dollars;

(3) High impact projects: in exchange for the consideration provided by the new tax revenues and other economic [stimulus] **stimuli** that will be generated by the new jobs created by the program, a qualified company may retain an amount from the withholding tax of the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, equal to three percent of new payroll for a

period of five years from the date the required number of jobs were created if the average wage of the new payroll equals or exceeds the county average wage of the county in which the project facility is located. The percentage of payroll allowed under this subdivision shall be three and one-half percent of new payroll if the average wage of the new payroll in any year exceeds one hundred twenty percent of the county average wage in the county in which the project facility is located. The percentage of payroll allowed under this subdivision shall be four percent of new payroll if the average wage of the new payroll in any year exceeds one hundred forty percent of the county average wage in the county in which the project facility is located. An additional one percent of new payroll may be added to these percentages if local incentives equal between ten percent and twenty-four percent of the new direct local revenue; an additional two percent of new payroll is added to these percentages if the local incentives equal between twenty-five percent and forty-nine percent of the new direct local revenue; or an additional three percent of payroll is added to these percentages if the local incentives equal fifty percent or more of the new direct local revenue. The department shall issue a refundable tax credit for any difference between the amount of benefit allowed under this subdivision and the amount of withholding tax retained by the company, in the event the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified company under this subdivision. The calendar year annual maximum amount of tax credits that may be issued to any qualified company for a project or combination of projects is seven hundred fifty thousand dollars. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a project or combination of projects may be increased up to one million dollars **if the number of new jobs will exceed five hundred and** if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting the increased limit on behalf of the project;

(4) Job retention projects: a qualified company may receive a tax credit for the retention of jobs in this state, provided the qualified company and the project meets all of the following conditions:

(a) For each of the twenty-four months preceding the year in which application for the program is made the qualified company must have maintained at least one thousand full-time[, year-round] employees at the employer's site in the state at which the jobs are based, and the average wage of such employees must meet or exceed the county average wage;

(b) The qualified company retained at the project facility the level of full-time[, year-round] employees that existed in the taxable year immediately preceding the year in which application for the program is made;

(c) The qualified company is considered to have a significant statewide effect on the economy, and has been determined to represent a substantial risk of relocation from the state by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development;

(d) The qualified company in the project facility will cause to be invested a minimum of seventy million dollars in new investment prior to the end of two years or will cause to be invested a minimum of thirty million dollars in new investment prior to the end of two years and maintain an annual payroll of at least seventy million dollars during each of the years for which a credit is claimed; and

(e) The local taxing entities shall provide local incentives of at least fifty percent of the new direct local revenues created by the project over a ten-year period.

The quality jobs advisory task force may recommend to the department of economic development that appropriate penalties be applied to the company for violating the agreement. The amount of the job retention credit granted may be equal to up to fifty percent of the amount of withholding tax generated by the full-time[, year-round] jobs at the project facility for a period of five years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a job retention project or combination of job retention projects shall be seven hundred fifty thousand dollars per year, but the maximum amount may be increased up to one million dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting the increased limit on behalf of the job retention project. In no event shall the total amount of all tax credits issued for the entire job retention program under this subdivision exceed three million dollars annually. Notwithstanding the above, no tax credits shall be issued for job retention projects approved by the department after August 30, 2007;

(5) Small business job retention and flood survivor relief: a qualified company may receive a tax credit under sections 620.1875 to 620.1890 for the retention of jobs and flood survivor relief in this state for each job retained over a three-year period, provided that:

(a) The qualified company did not receive any state or federal benefits, incentives, or tax relief or abatement in locating its facility in a flood plain;

(b) The qualified company and related companies have fewer than one hundred employees at the time application for the program is made;

(c) The average wage of the qualified company's and related companies' employees must meet or exceed the county average wage;

(d) All of the qualified company's and related companies' facilities are located in this state;

(e) The facilities at the primary business site in this state have been directly damaged by flood water rising above the level of a five hundred year flood at least two years, but fewer than eight years, prior to the time application is made;

(f) The qualified company made significant efforts to protect the facilities prior to any impending danger from rising floodwaters;

(g) For each year it receives tax credits under sections 620.1875 to 620.1890, the qualified company and related companies retained, at the company's facilities in this state, at least the level of full-time, year- round employees that existed in the taxable year immediately preceding the year in which application for the program is made; and

(h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company cumulatively invests at least two million dollars in capital improvements in facilities and equipment located at such facilities that are not located within a five hundred year flood plain as designated by the Federal Emergency Management Agency, and amended from time to time.

The amount of the small business job retention and flood survivor relief credit granted may be equal to up to one hundred percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of three years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a small business job retention and survivor relief project shall be two hundred fifty thousand dollars per year, but the maximum amount may be increased up to five hundred thousand dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887. In considering such a request, the task force shall rely on economic modeling and other information supplied by

the department when requesting an increase in the limit on behalf of the small business job retention and flood survivor relief project. In no event shall the total amount of all tax credits issued for the entire small business job retention and flood survivor relief program under this subdivision exceed five hundred thousand dollars annually. Notwithstanding the provisions of this subdivision to the contrary, no tax credits shall be issued for small business job retention and flood survivor relief projects approved by the department after August 30, 2010.

4. The qualified company shall provide an annual report of the number of jobs and such other information as may be required by the department to document the basis for the benefits of this program. The department may withhold the approval of any benefits until it is satisfied that proper documentation has been provided, and shall reduce the benefits to reflect any reduction in full-time[, year-round] employees or new payroll. Upon approval by the department, the qualified company may begin the retention of the withholding taxes when it reaches the minimum number of new jobs and the average wage exceeds the county average wage. Tax credits, if any, may be issued upon satisfaction by the department that the qualified company has exceeded the county average wage and the minimum number of new jobs. In such annual report, if the average wage is below the county average wage, the qualified company has not maintained the employee insurance as required, or if the number of new jobs is below the minimum, the qualified company shall not receive tax credits or retain the withholding tax for the balance of the benefit period. In the case of a qualified company that initially filed a notice of intent and received an approval from the department for high impact benefits and the minimum number of new jobs in an annual report is below the minimum for high impact projects, the company shall not receive tax credits for the balance of the benefit period but may continue to retain the withholding taxes if it otherwise meets the requirements of a small and expanding business under this program.

5. The maximum calendar year annual tax credits issued for the entire program shall not exceed [twelve] **forty** million dollars. Notwithstanding any provision of law to the contrary, the maximum annual tax credits authorized under section 135.535, RSMo, are hereby reduced from ten million dollars to eight million dollars, with the balance of two million dollars transferred to this program. There shall be no limit on the amount of withholding taxes that may be retained by approved companies under this program.

6. The department shall allocate the annual tax credits based on the date of the [proposal] **approval**, reserving such tax credits based on the department's best estimate of new jobs and new payroll of the project, and the other factors in the determination of benefits of this program. However, the annual issuance of tax credits is subject to the annual verification of the actual new payroll. The allocation of tax credits for the period assigned to a project shall expire if, within two years from the date of commencement of operations, or [proposal] **approval** if applicable, the minimum thresholds have not been achieved. The qualified company may retain authorized amounts from the withholding tax under this section once the minimum new jobs thresholds are met for the duration of the project period. No benefits shall be provided under this program until the qualified company meets the minimum new jobs thresholds. In the event the qualified company does not meet the minimum new job threshold, the qualified company may submit a new notice of intent or the department may provide a new [proposal] **approval** for a new project of the qualified company at the project facility or other facilities.

7. For a qualified company with flow-through tax treatment to its members, partners, or shareholders, the tax credit shall be allowed to members, partners, or shareholders in proportion to their share of ownership on the last day of the qualified company's tax period.

8. Tax credits may be claimed against taxes otherwise imposed by chapters 143 and 148, RSMo, and may not be carried forward but shall be claimed within one year of the close of the taxable year for which they were issued, **except as provided under subdivision (4) of subsection 3 of this section.**

9. Tax credits authorized by this section may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department.

10. **Prior to the issuance of tax credits, the department shall verify through the department of revenue, or any other state department, that the tax credit applicant does not owe any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent fees or assessments levied by any state department and through the department of insurance that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization of the application for such tax credits, except that at issuance credits shall be first applied to the delinquency and any amount issued shall be reduced by the applicant's tax delinquency. If the department of revenue or the department of insurance, or any other state department, concludes that a taxpayer is delinquent after June fifteenth but before July first of any year and the application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all available credits toward a tax delinquency, the administering agency shall notify the appropriate department and that department shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of other provisions of law.**

11. **Except as provided under subdivision (4) of subsection 3 of this section,** the director of revenue shall issue a refund to the qualified company to the extent that the amount of credits allowed in this section exceeds the amount of the qualified company's income tax.

[11.] 12. An employee of a qualified company will receive full credit for the amount of tax withheld as provided in section [143.221] **143.211**, RSMo.

[12.] 13. If any provision of sections 620.1875 to 620.1890 or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of these sections which can be given effect without the invalid provisions or application, and to this end, the provisions of sections 620.1875 to 620.1890 are hereby declared severable.

[99.820. MUNICIPALITIES' POWERS AND DUTIES — COMMISSION APPOINTMENT AND POWERS — PUBLIC DISCLOSURE REQUIREMENTS — OFFICIALS' CONFLICT OF INTEREST, PROHIBITED. — 1. A municipality may:

(1) By ordinance introduced in the governing body of the municipality within fourteen to ninety days from the completion of the hearing required in section 99.825, approve redevelopment plans and redevelopment projects, and designate redevelopment project areas pursuant to the notice and hearing requirements of sections 99.800 to 99.865. No redevelopment project shall be approved unless a redevelopment plan has been approved and a redevelopment area has been designated prior to or concurrently with the approval of such redevelopment project and the area selected for the redevelopment project shall include only those parcels of real property and improvements thereon directly and substantially benefited by the proposed redevelopment project improvements;

(2) Make and enter into all contracts necessary or incidental to the implementation and furtherance of its redevelopment plan or project;

(3) Pursuant to a redevelopment plan, subject to any constitutional limitations, acquire by purchase, donation, lease or, as part of a redevelopment project, eminent domain, own, convey, lease, mortgage, or dispose of, land and other property, real or personal, or rights or interests therein, and grant or acquire licenses, easements and options with respect thereto, all in the manner and at such price the municipality or the commission determines is reasonably

necessary to achieve the objectives of the redevelopment plan. No conveyance, lease, mortgage, disposition of land or other property, acquired by the municipality, or agreement relating to the development of the property shall be made except upon the adoption of an ordinance by the governing body of the municipality. Each municipality or its commission shall establish written procedures relating to bids and proposals for implementation of the redevelopment projects. Furthermore, no conveyance, lease, mortgage, or other disposition of land or agreement relating to the development of property shall be made without making public disclosure of the terms of the disposition and all bids and proposals made in response to the municipality's request. Such procedures for obtaining such bids and proposals shall provide reasonable opportunity for any person to submit alternative proposals or bids;

(4) Within a redevelopment area, clear any area by demolition or removal of existing buildings and structures;

(5) Within a redevelopment area, renovate, rehabilitate, or construct any structure or building;

(6) Install, repair, construct, reconstruct, or relocate streets, utilities, and site improvements essential to the preparation of the redevelopment area for use in accordance with a redevelopment plan;

(7) Within a redevelopment area, fix, charge, and collect fees, rents, and other charges for the use of any building or property owned or leased by it or any part thereof, or facility therein;

(8) Accept grants, guarantees, and donations of property, labor, or other things of value from a public or private source for use within a redevelopment area;

(9) Acquire and construct public facilities within a redevelopment area;

(10) Incur redevelopment costs and issue obligations;

(11) Make payment in lieu of taxes, or a portion thereof, to taxing districts;

(12) Disburse surplus funds from the special allocation fund to taxing districts as follows:

(a) Such surplus payments in lieu of taxes shall be distributed to taxing districts within the redevelopment area which impose ad valorem taxes on a basis that is proportional to the current collections of revenue which each taxing district receives from real property in the redevelopment area;

(b) Surplus economic activity taxes shall be distributed to taxing districts in the redevelopment area which impose economic activity taxes, on a basis that is proportional to the amount of such economic activity taxes the taxing district would have received from the redevelopment area had tax increment financing not been adopted;

(c) Surplus revenues, other than payments in lieu of taxes and economic activity taxes, deposited in the special allocation fund, shall be distributed on a basis that is proportional to the total receipt of such other revenues in such account in the year prior to disbursement;

(13) If any member of the governing body of the municipality, a member of a commission established pursuant to subsection 2 of this section, or an employee or consultant of the municipality, involved in the planning and preparation of a redevelopment plan, or redevelopment project for a redevelopment area or proposed redevelopment area, owns or controls an interest, direct or indirect, in any property included in any redevelopment area, or proposed redevelopment area, which property is designated to be acquired or improved pursuant to a redevelopment project, he or she shall disclose the same in writing to the clerk of the municipality, and shall also so disclose the dates, terms, and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the governing body of the municipality and entered upon the minutes books of the governing body of the municipality. If an individual holds such an interest, then that individual shall refrain from any further official involvement in regard to such redevelopment plan, redevelopment project or redevelopment area, from voting on any matter pertaining to such redevelopment plan, redevelopment project or redevelopment area, or communicating with other members concerning any matter pertaining

to that redevelopment plan, redevelopment project or redevelopment area. Furthermore, no such member or employee shall acquire any interest, direct or indirect, in any property in a redevelopment area or proposed redevelopment area after either (a) such individual obtains knowledge of such plan or project, or (b) first public notice of such plan, project or area pursuant to section 99.830, whichever first occurs;

(14) Charge as a redevelopment cost the reasonable costs incurred by its clerk or other official in administering the redevelopment project. The charge for the clerk's or other official's costs shall be determined by the municipality based on a recommendation from the commission, created pursuant to this section.

2. Prior to adoption of an ordinance approving the designation of a redevelopment area or approving a redevelopment plan or redevelopment project, the municipality shall create a commission of nine persons if the municipality is a county or a city not within a county and not a first class county with a charter form of government with a population in excess of nine hundred thousand, and eleven persons if the municipality is not a county and not in a first class county with a charter form of government having a population of more than nine hundred thousand, and twelve persons if the municipality is located in or is a first class county with a charter form of government having a population of more than nine hundred thousand, to be appointed as follows:

(1) In all municipalities two members shall be appointed by the school boards whose districts are included within the redevelopment plan or redevelopment area. Such members shall be appointed in any manner agreed upon by the affected districts;

(2) In all municipalities one member shall be appointed, in any manner agreed upon by the affected districts, to represent all other districts levying ad valorem taxes within the area selected for a redevelopment project or the redevelopment area, excluding representatives of the governing body of the municipality;

(3) In all municipalities six members shall be appointed by the chief elected officer of the municipality, with the consent of the majority of the governing body of the municipality;

(4) In all municipalities which are not counties and not in a first class county with a charter form of government having a population in excess of nine hundred thousand, two members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(5) In a municipality which is a county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(6) In a municipality which is located in the first class county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(7) Effective January 1, 2008, in a municipality which is in a county under the authority of the East-West Gateway Council of Governments, except any municipality in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, the municipality shall create a commission in the same manner as the commission for any county with a charter form of government and with more than one million inhabitants, such commission shall have twelve members with two such members appointed by the school boards whose districts are included in the county in a manner in which such school boards agree, with one such member to represent all other districts levying ad valorem taxes in a manner in which all such districts agree, six such members appointed either by the county executive or county commissioner, and three such members appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(8) Effective January 1, 2008, when any city, town, or village under the authority of the East-West Gateway Council of Governments desires to implement a tax increment financing project, such city, town, or village shall first obtain the permission of the county tax increment financing commission created in this subsection within which the city, town, or village is located. In the event such commission votes in opposition to the redevelopment project, such redevelopment project shall not be approved unless at least two-thirds of the governing body of the city, town, or village votes to approve such project;

(9) At the option of the members appointed by the municipality, the members who are appointed by the school boards and other taxing districts may serve on the commission for a term to coincide with the length of time a redevelopment project, redevelopment plan or designation of a redevelopment area is considered for approval by the commission, or for a definite term pursuant to this subdivision. If the members representing school districts and other taxing districts are appointed for a term coinciding with the length of time a redevelopment project, plan or area is approved, such term shall terminate upon final approval of the project, plan or designation of the area by the governing body of the municipality. Thereafter the commission shall consist of the six members appointed by the municipality, except that members representing school boards and other taxing districts shall be appointed as provided in this section prior to any amendments to any redevelopment plans, redevelopment projects or designation of a redevelopment area. If any school district or other taxing jurisdiction fails to appoint members of the commission within thirty days of receipt of written notice of a proposed redevelopment plan, redevelopment project or designation of a redevelopment area, the remaining members may proceed to exercise the power of the commission. Of the members first appointed by the municipality, two shall be designated to serve for terms of two years, two shall be designated to serve for a term of three years and two shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed by the municipality shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments.

3. The commission, subject to approval of the governing body of the municipality, may exercise the powers enumerated in sections 99.800 to 99.865, except final approval of plans, projects and designation of redevelopment areas. The commission shall hold public hearings and provide notice pursuant to sections 99.825 and 99.830. The commission shall vote on all proposed redevelopment plans, redevelopment projects and designations of redevelopment areas, and amendments thereto, within thirty days following completion of the hearing on any such plan, project or designation and shall make recommendations to the governing body within ninety days of the hearing referred to in section 99.825 concerning the adoption of or amendment to redevelopment plans and redevelopment projects and the designation of redevelopment areas. The requirements of subsection 2 of this section and this subsection shall not apply to redevelopment projects upon which the required hearings have been duly held prior to August 31, 1991.]

[578.395. TICKET SCALPING , PENALTY. — 1. Any person, firm, or corporation who resells or offers to resell any ticket for admission, or any other evidence of the right of entry, to any public sporting event for a price in excess of the price printed on the ticket is guilty of the offense of ticket scalping. For purposes of this section, if a seller requires, as a precondition of the resale of a ticket, the purchase or rental of other goods or services at a price in excess of the fair market value of such goods or services, the excess amount shall be deemed to be part of the purchase price of the ticket.

2. Nothing in this section shall prohibit nor shall be deemed to prohibit a seller, with consent of the sponsor of such sporting event, from collecting a reasonable service charge from a ticket purchaser in return for services actually rendered.

3. Any person violating this section upon conviction shall be guilty of a misdemeanor and, except as provided in subsection 4 of this section, shall be punished as follows:

(1) For the first offense, by a fine of not less than fifty dollars nor more than three hundred dollars or by imprisonment in the county jail for a term of not less than fifteen days;

(2) For the second offense, by a fine of not less than three hundred dollars nor more than five hundred dollars or by imprisonment in the county jail for a term of not less than sixty days nor more than six months;

(3) For the third and each subsequent offense, by a fine of not less than five hundred dollars nor more than one thousand dollars or imprisonment in the county jail for a term of not less than six months nor more than one year.

4. In lieu of any fine imposed under subsection 3 of this section, the court may invoke the provisions of subsection 2 of section 560.016, RSMo, against any person convicted of a second or subsequent offense of this section.]

[620.521. LAW, HOW CITED.] — Sections 620.521 to 620.530 shall be known and may be cited as the "Missouri Training and Employment Council Act".]

[620.523. MISSOURI TRAINING AND EMPLOYMENT COUNCIL ESTABLISHED, PURPOSE — MEMBERS, APPOINTMENT, QUALIFICATIONS — RULES ESTABLISHED IN BYLAWS — TERMS, EXPENSES.] — 1. There is hereby established the "Missouri Training and Employment Council".

2. The Missouri training and employment council shall study and make recommendations regarding the improvement of the state's job training service delivery network. Such recommendations will consider improved federal and state resource use and expanded coordination of state job training and employment activities with other related activities. Using the results of interdepartmental collaboration at early stages of policy formation, the council shall propose a statewide training and employment policy and a periodically updated plan of services for achieving Missouri's objective of full employment. The council shall serve as a forum for public and private sector representation to encourage cooperative uses of training and employment funding, facilities and staff resources for a more comprehensive and coordinated statewide system.

3. The Missouri training and employment council shall consist of thirty members appointed by the governor with the advice and consent of the senate. The governor shall designate one nongovernmental member to be chairman. The council shall be composed as follows:

(1) Thirty percent of the membership shall be representatives of business, industry and agriculture, including individuals who are representatives of business, industry, and agriculture on private industry councils, job service employer committees or local education advisory committees within the state;

(2) Thirty percent of the membership shall be:

(a) Members of the general assembly and state agencies and organizations. One representative each from the department of economic development, the department of elementary and secondary education, the department of labor and industrial relations and the department of social services shall be appointed;

(b) Representatives of the units or consortia of units of general local government which shall be nominated by the chief elected officials of the units or consortia of units of local government and the representatives of local educational agencies who shall be nominated by local educational agencies. One community college president or chancellor, one representative of the state council on vocational education and one director of an area vocational school shall be appointed to the council. To the extent feasible, such appointees shall have knowledge of or experience with economic development, job training, education or related areas;

(3) Thirty percent of the membership shall be representatives of organized labor and representatives of community-based organizations in the state;

(4) Ten percent of the membership shall be representatives of the general public.

The composition and the roles and responsibilities of the Missouri training and employment council membership may be amended to comply with any succeeding federal or state legislative or regulatory requirements governing training and employment programs, except that the procedure for such change shall be outlined in state rules and regulations and adopted in the bylaws of the council.

4. Each member of the council shall serve for a term of four years and until a successor is duly appointed; except that, of the members first appointed, six members shall serve for a term of four years, eight members shall serve for a term of three years, eight members shall serve for a term of two years and eight members shall serve for a term of one year. Each member shall continue to serve until a successor is duly appointed. The council shall meet at least four times each year at the call of the chairman.

5. The members of the council shall receive no compensation, but shall be reimbursed for all necessary expenses actually incurred in the performance of their official duties.]

[620.527. POWERS AND DUTIES OF COUNCIL. — 1. The Missouri training and employment council shall:

(1) Review studies of occupational trends, employment supply and demand, industry growth, job training program participation, labor force literacy and early warning signals that industries are beginning to decline or are in danger of closing;

(2) Report to the governor and to the general assembly regarding statewide training and employment policies which have been developed in concert with interagency assistance from the department of economic development, the department of elementary and secondary education, the department of labor and industrial relations, the department of social services and other agencies delivering training and employment services;

(3) Prepare and submit to appropriate state and local agencies a statewide plan for full-employment services including such activities as labor exchange, job training or retraining, job development, job placement services and labor force literacy;

(4) Work through various state agencies delivering training and employment services to review interagency coordination and program effectiveness;

(5) Review and report to the governor innovative proposals for training and employment programs; and

(6) Encourage the participation of government, business and industry, and unions or other labor organizations, for providing assistance to dislocated workers, in communities where plant closures occur.

2. The roles, responsibilities and duties of the Missouri job training coordinating council established by Missouri executive order 88-8 are hereby assigned to the Missouri training and employment council. The Missouri training and employment council shall perform all council functions required by the federal Job Training Partnership Act, as amended, as well as the expanded requirements defined by sections 620.521 to 620.530.]

[620.529. STATEWIDE TRAINING AND EMPLOYMENT PLAN TO BE PREPARED FOR STATE AND LOCAL AGENCIES — CONTENT OF PLAN — REVIEW AND UPDATE REQUIRED. — 1. The Missouri training and employment council shall prepare and recommend a statewide training and employment plan for consideration by appropriate state and local agencies by 1993. The plan shall be reviewed annually and updated periodically and shall propose implementation timetables, measurable objectives and specific courses of action. The plan shall describe possible cooperative uses of training and employment funding, facilities and staff resources whenever feasible and shall focus on the development of a more coordinated training and employment delivery system.

2. The plan shall include provisions to accomplish the following objectives by the administering agencies:

- (1) Provide a streamlined intake and assessment process for persons seeking training and employment assistance;
- (2) Target appropriate skill areas for training so that persons are trained for positions expected to exist in the labor market;
- (3) Allow workers with obsolete or inadequate skills to have their skills upgraded while retaining employment;
- (4) Retrain workers displaced by high technology industry and plant closings to reenter the Missouri workforce;
- (5) Involve business and industry in the planning, operation and evaluation of training programs;
- (6) Encourage and assist local educational agencies, vocational technical schools and post-secondary institutions to coordinate their curricula and course selections with the changing needs of business and industry;
- (7) Develop programs to improve the use of apprenticeship as a method of instruction in Missouri.

3. The objectives listed in subsection 2 of this section shall be the foundation for interagency efforts to coordinate services and offer programs which maximize resources to meet Missouri's workforce needs while recognizing various agency roles and responsibilities.]

[620.530. DIVISION OF JOB DEVELOPMENT TRAINING TO PROVIDE PROFESSIONAL AND CLERICAL STAFF — DIVISION TO DEVELOP RULES TO CARRY OUT PLANS AND POLICIES. —

1. The division of job development and training shall provide professional, technical and clerical staff support and resources to the Missouri training and employment council; administer training programs authorized under the federal Job Training Partnership Act; administer programs authorized under sections 620.470 to 620.481; and administer such other federal or state job development and training programs as are assigned to the division.

2. The division shall promulgate rules and regulations necessary to carry out its responsibility to the Missouri training and employment council and to develop the plans and policies adopted by the council. No rule or portion of a rule promulgated under the authority of sections 620.470 to 620.570 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

[620.537. TARGETED INDUSTRIES STUDY, PURPOSE, DISTRIBUTION — STUDY OF CLUSTERED JOB TRAINING. —

1. The department of economic development shall commission a new targeted industries study to identify those general areas of the Missouri economy where growth and increased employment is likely to occur in the next decade, and to ascertain necessary, associated work force skills and requirements. The completed study shall be distributed to all Missouri state agencies which provide job training services in order to promote collaboration in the development of employment projections and in the delivery of training services, and to any local economic development agency requesting a copy of such study.

2. The Missouri training and employment council, in conjunction with the state's private industry councils, the state's community colleges, the state's area vocational technical schools, community action agencies, as defined in section 660.370, RSMo, the department of economic development, the department of elementary and secondary education, the department of labor and industrial relations, the department of social services, and the Missouri state council on vocational education shall initiate a study regarding the value of a clustered or regional focus on job training, including the establishment of customized, technical training centers and utilization of portable equipment. Emphasis will be placed on the determination of broad occupational training needs.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary for the creation of family-supporting jobs for the citizens of Missouri and creating incentives for

investment in the state, the repeal and reenactment of sections 620.1878 and 620.1881 and the enactment of section 135.680 of this act are deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 620.1878 and 620.1881 and the enactment of section 135.680 of this act shall be in full force and effect upon its passage and approval.

Approved September 4, 2007

HB 2 [HB 2]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows the Highways and Transportation Commission to modify bonding requirements for projects designated as design-build-finance-maintain projects which exceed 25 years

AN ACT to repeal section 227.107, RSMo, and to enact in lieu thereof one new section relating to state highways and transportation commission design-build state highway project bond requirements, with an emergency clause.

SECTION

- A. Enacting clause.
- 227.107. Design-build project contracts permitted, limitations, definitions — written procedures required — submission of detailed disadvantaged business enterprise participation plan — bid process — rulemaking authority — status report to general assembly — cost estimates to be published.
- B. Emergency Clause

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 227.107, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 227.107, to read as follows:

227.107. DESIGN-BUILD PROJECT CONTRACTS PERMITTED, LIMITATIONS, DEFINITIONS — WRITTEN PROCEDURES REQUIRED — SUBMISSION OF DETAILED DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION PLAN — BID PROCESS — RULEMAKING AUTHORITY — STATUS REPORT TO GENERAL ASSEMBLY — COST ESTIMATES TO BE PUBLISHED. — 1. Notwithstanding any provision of section 227.100 to the contrary, as an alternative to the requirements and procedures specified by sections 227.040 to 227.100, the state highways and transportation commission is authorized to enter into highway design-build project contracts. The authority granted to the state highways and transportation commission by this section shall be limited to a total of three design-build project contracts. Two design-build projects authorized by this section shall be selected by the highways and transportation commission from 1992 fifteen year plan projects. Authority to enter into design-build projects granted by this section shall expire on July 1, 2012, unless extended by statute or upon completion of three projects, whichever is first.

2. For the purpose of this section a "design-builder" is defined as an individual, corporation, partnership, joint venture or other entity, including combinations of such entities making a proposal to perform or performing a design-build highway project contract.

3. For the purpose of this section, "design-build highway project contract" is defined as the procurement of all materials and services necessary for the design, construction, reconstruction

or improvement of a state highway project in a single contract with a design-builder capable of providing the necessary materials and services.

4. For the purpose of this section, "highway project" is defined as the design, construction, reconstruction or improvement of highways or bridges under contract with the state highways and transportation commission, which is funded by state, federal or local funds or any combination of such funds.

5. In using a design-build highway project contract, the commission shall establish a written procedure by rule for prequalifying design-builders before such design-builders will be allowed to make a proposal on the project.

6. In any design-build highway project contract, whether involving state or federal funds, the commission shall require that each person submitting a request for qualifications provide a detailed disadvantaged business enterprise participation plan. The plan shall provide information describing the experience of the person in meeting disadvantaged business enterprise participation goals, how the person will meet the department of transportation's disadvantaged business enterprise participation goal and such other qualifications that the commission considers to be in the best interest of the state.

7. The commission is authorized to issue a request for proposals to a maximum of five design-builders prequalified in accordance with subsection 5 of this section.

8. The commission may require approval of any person performing subcontract work on the design-build highway project.

9. The bid bond and performance bond requirements of section 227.100 and the payment bond requirements of section 107.170, RSMo, shall apply to the design-build highway project.

10. **The requirements of subsection 9 of this section may be modified by the commission for any design- build highway project contract which is designated by the commission as a "design-build-finance-maintain" project, and for which the contract with the design-builder exceeds twenty-five years. For such projects, the commission shall require the design-builder to provide, or cause to be provided by the construction entity or entities providing construction services under contract to the design-builder directly, such bonds, or such other security, in such terms, durations, and amounts as the commission may determine to be adequate for its protection and provided by a surety, sureties, or financial institution or institutions satisfactory to the commission, including but not limited to:**

(1) A bid or proposal bond, or other security authorized under subsection 2 of section 227.100, in an amount of not less than five million dollars;

(2) A performance bond or bonds for the construction period specified in the design-build highway project contract in an aggregate amount of not less than two hundred million dollars or twenty-five percent of a reasonable estimate of the cost of construction work, whichever amount is lower, except the commission may allow other security in lieu of or in addition to any bond or bonds, including but not limited to letters of credit or other negotiable instruments, such other or additional security to be on such terms, for such durations, and in such amounts as the commission may determine to be adequate for the protection of the commission, and to be provided by sureties or financial institutions satisfactory to the commission; and

(3) A payment bond or bonds that shall be enforceable under section 522.300, RSMo, for the protection of persons supplying labor and material in carrying out the construction work provided for in the design-build highway project contract. The aggregate amount of the payment bond or bonds shall equal a reasonable estimate of the total amount payable for the cost of construction work under the terms of the design- build highway project contract unless the commission determines in writing supported by specific findings that a payment bond or bonds in such amount is impractical, in which case the commission shall establish the amount of the payment bond or bonds; except that the amount of the payment bond or bonds shall not be less than the aggregate amount of the

performance bond or bonds and the additional security to such performance bond or bonds, or in the amount of the other security used in lieu of the performance bond or bonds.

11. The commission is authorized to prescribe the form of the contracts for the work.

[11.] **12.** The commission is empowered to make all final decisions concerning the performance of the work under the design-build highway project contract, including claims for additional time and compensation.

[12.] **13.** The provisions of sections 8.285 to 8.291, RSMo, shall not apply to the procurement of architectural, engineering or land surveying services for the design-build highway project, except that any person providing architectural, engineering or land surveying services for the design-builder on the design-build highway project must be licensed in Missouri to provide such services.

[13.] **14.** The commission shall pay a reasonable stipend to prequalified responsive design-builders who submit a proposal, but are not awarded the design-build highway project.

[14.] **15.** The commission shall comply with the provisions of any act of congress or any regulations of any federal administrative agency which provides and authorizes the use of federal funds for highway projects using the design-build process.

[15.] **16.** The commission shall promulgate administrative rules to implement this section or to secure federal funds. Such rules shall be published for comment in the Missouri Register and shall include prequalification criteria, the make-up of the prequalification review team, specifications for the design criteria package, the method of advertising, receiving and evaluating proposals from design-builders, the criteria for awarding the design-build highway project based on the design criteria package and a separate proposal stating the cost of construction, and other methods, procedures and criteria necessary to administer this section.

[16.] **17.** The commission shall make a status report to the members of the general assembly and the governor following the award of the design-build project, as an individual component of the annual report submitted by the commission to the joint transportation oversight committee in accordance with the provisions of section 21.795, RSMo. The annual report prior to advertisement of the design-build highway project contracts shall state the goals of the project in reducing costs and/or the time of completion for the project in comparison to the design-bid-build method of construction and objective measurements to be utilized in determining achievement of such goals. Subsequent annual reports shall include: the time estimated for design and construction of different phases or segments of the project and the actual time required to complete such work during the period; the amount of each progress payment to the design-builder during the period and the percentage and a description of the portion of the project completed regarding such payment; the number and a description of design change orders issued during the period and the cost of each such change order; upon substantial and final completion, the total cost of the design-build highway project with a breakdown of costs for design and construction; and such other measurements as specified by rule. The annual report immediately after final completion of the project shall state an assessment of the advantages and disadvantages of the design-build method of contracting for highway and bridge projects in comparison to the design-bid-build method of contracting and an assessment of whether the goals of the project in reducing costs and/or the time of completion of the project were met.

[17.] **18.** The commission shall give public notice of a request for qualifications in at least two public newspapers that are distributed wholly or in part in this state and at least one construction industry trade publication that is distributed nationally.

[18.] **19.** The commission shall publish its cost estimates of the design-build highway project award and the project completion date along with its public notice of a request for qualifications of the design-build project.

[19.] **20.** If the commission fails to receive at least two responsive submissions from design-builders considered qualified, submissions shall not be opened and it shall readvertise the project.

SECTION B. EMERGENCY CLAUSE.— Because immediate action is necessary to ensure public safety in the state, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved September 4, 2007

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